

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

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

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

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. (New section) This act shall be known, and may be cited, as the
12 "Highlands Water Protection and Planning Act."

13
14 2. (New section) The Legislature finds and declares that the
15 national Highlands Region is an area that extends from northwestern
16 Connecticut across the lower Hudson River Valley and northern New
17 Jersey into east central Pennsylvania; that the national Highlands
18 ¹[region] Region¹ has been recognized as a landscape of special
19 significance by the United States Forest Service; that the New Jersey
20 portion of the national Highlands Region is nearly 800,000 acres, or
21 about 1,250 miles, covering portions of ¹[90] ~~88~~¹ municipalities in
22 seven counties; ¹and¹ that the New Jersey Highlands Region is
23 designated as a Special Resource Area in the State Development and
24 Redevelopment Plan.

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

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate SEN committee amendments adopted June 7, 2004.

1 contiguous forest lands, wetlands, pristine watersheds, and ¹[wildlife
2 and plant species habitats] habitat for fauna and flora¹, includes many
3 sites of historic significance, and provides abundant recreational
4 opportunities for the citizens of the State.

5 The Legislature further finds and declares that the New Jersey
6 Highlands provides a desirable quality of life and place where people
7 live and work; that it is important to ensure the economic viability of
8 communities throughout the New Jersey Highlands; ¹and¹ that
9 residential, commercial, and industrial development ¹[and],¹
10 redevelopment¹,¹ and economic growth in certain appropriate areas of
11 the New Jersey Highlands ¹[is] are¹ also in the best interests of all the
12 citizens of the State, providing ¹[enumerable] innumerable¹ social,
13 cultural, and economic benefits and opportunities.

14 The Legislature further finds and declares that there are
15 approximately 110,000 acres of agricultural lands in active production
16 in the New Jersey Highlands; that these lands are important resources
17 of the State that should be preserved; ¹[and]¹ that the agricultural
18 industry in the region is a vital component of the economy ¹[and],¹
19 welfare ¹, and cultural landscape¹ of the ¹Garden¹ State ¹; and, that in
20 order to preserve the agricultural industry in the region, it is necessary
21 and important to recognize and reaffirm the goals, purposes, policies,
22 and provisions of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1
23 et seq.) and the protections afforded to farmers thereby¹.

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

35 The Legislature further finds and declares that the protection of the
36 New Jersey Highlands, because of its vital link to the future of the
37 State's drinking water supplies and other key natural resources, is an
38 issue of State level importance that cannot be left to the uncoordinated
39 land use decisions of ¹[90] 88¹ municipalities, seven counties, and a
40 myriad of private landowners; that the State should take action to
41 delineate within the New Jersey Highlands a preservation area of
42 exceptional natural resource value that includes watershed protection
43 and other environmentally sensitive lands where stringent protection
44 policies ¹[would] should¹ be implemented; that a regional approach
45 to land use planning in the preservation area should be established to
46 replace the existing uncoordinated system; that such a new regional

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

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

21 The Legislature therefore determines, in the light of these findings
22 set forth hereinabove, and with the intention of transforming them into
23 action, that it is in the public interest of all the citizens of the State of
24 New Jersey to enact legislation setting forth a comprehensive approach
25 to the protection of the water and other natural resources of the New
26 Jersey Highlands; that this comprehensive approach should consist of
27 the identification of a preservation area of the New Jersey Highlands
28 that would be subjected to stringent water and natural resource
29 protection ¹standards, policies¹, planning, and regulation; that this
30 comprehensive approach should also consist of the establishment of a
31 Highlands Water Protection and Planning Council charged with the
32 preparation of a regional master plan for the preservation area in the
33 New Jersey Highlands as well as for the region in general; that this
34 comprehensive approach should also include the adoption by the
35 Department of Environmental Protection of stringent standards
36 governing major development in the Highlands preservation area; that
37 ¹, ¹ because of the imminent peril that the ongoing rush of development
38 poses for the New Jersey Highlands, immediate, interim standards
39 should be imposed on the date of enactment of this act on major
40 development in the preservation area of the New Jersey Highlands,
41 followed subsequently by adoption by the department of appropriate
42 rules and regulations; that it is appropriate to encourage in certain
43 areas of the New Jersey Highlands, consistent with the State
44 Development and Redevelopment Plan and smart growth strategies
45 and principles, appropriate patterns of compatible residential,
46 commercial, and industrial development, redevelopment, and economic
47 growth, in or adjacent to areas already utilized for such purposes, and

1 to discourage piecemeal, scattered, and inappropriate development, in
2 order to accommodate local and regional growth and economic
3 development in an orderly way while protecting the Highlands
4 environment from the individual and cumulative adverse impacts
5 thereof; that the maintenance of agricultural production and a positive
6 agricultural business climate should be encouraged to the maximum
7 extent possible wherever appropriate in the New Jersey Highlands; and
8 that all such aforementioned measures should be guided, in heart,
9 mind, and spirit, by an abiding and generously given commitment to
10 protecting the incomparable water resources and natural beauty of the
11 New Jersey Highlands so as to preserve them intact, in trust, forever
12 for the pleasure, enjoyment, and use of future generations while also
13 providing every conceivable opportunity for appropriate economic
14 growth and development to advance the ¹[qualify] quality¹ of life of
15 the residents of the region and the entire State.

16

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

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

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

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

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

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

47 "Construction beyond site preparation" means having completed the

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

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

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

10 "Department" means the Department of Environmental Protection;

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

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

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

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

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

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

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

46 "Highlands open waters" means all springs, streams ¹including
47 intermittent streams¹, wetlands, and bodies of surface water, whether

1 natural or artificial, located wholly or partially within the boundaries
2 of the Highlands Region¹, but shall not mean swimming pools¹;
3 "Highlands Region" means that region so designated by subsection
4 a. of section 7 of this act;
5 ¹"Immediate family member" means spouse, child, parent, sibling,
6 aunt, uncle, niece, nephew, first cousin, grandparent, grandchild,
7 father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,
8 stepchild, stepbrother, stepsister, half brother, or half sister, whether
9 the individual is related by blood, marriage, or adoption;
10 "Impact fee" means cash or in-kind payments required to be paid by
11 a developer as a condition for approval of a major subdivision or major
12 site plan for the developer's proportional share of the cost of providing
13 new or expanded reasonable and necessary public improvements
14 located outside the property limits of the subdivision or development
15 but reasonably related to the subdivision or development based upon
16 the need for the improvement created by, and the benefits conferred
17 upon, the subdivision or development;¹
18 "Impervious surface" means any structure, surface, or improvement
19 that reduces or prevents absorption of stormwater into land, and
20 includes porous paving, paver blocks, gravel, crushed stone, decks,
21 patios, elevated structures, and other similar structures, surfaces, or
22 improvements;
23 ¹"Individual unit of development" means a dwelling unit in the case
24 of a residential development, a square foot in the case of a
25 non-residential development, or any other standard employed by a
26 municipality for different categories of development as a basis upon
27 which to establish a service unit;¹
28 "Local government unit" means a municipality, county, or other
29 political subdivision of the State, or any agency, board, commission,
30 utilities authority or other authority, or other entity thereof;
31 "Major ¹Highlands¹ development" means¹, except as otherwise
32 provided pursuant to subsection a. of section 30 of this act, (1)¹ any
33 non-residential development ¹[, whether or not it also qualifies as a
34 development as defined in the "Municipal Land Use Law," P.L.1975,
35 c.291 (C.40:55D-1 et seq.); any residential development, whether or
36 not it also qualifies as a development as defined in the "Municipal
37 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), that provides
38 for the ultimate disturbance of one acre or more of land or an increase
39 in impervious surface of one-quarter acre or more; or any residential
40 development, whether or not it also qualifies as a development as
41 defined in the "Municipal Land Use Law," P.L.1975, c.291
42 (C.40:55D-1 et seq.),] in the preservation area; (2) any residential
43 development in the preservation area¹ that requires an environmental
44 land use or water permit ¹[issued by the Department of Environmental
45 Protection but which does not result] or that results¹ in the ultimate
46 disturbance of one acre or more of land or ¹[an] a cumulative¹
47 increase in impervious surface by one-quarter acre or more; ¹(3) any

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 "Waters of the Highlands" means all springs, streams ¹including
33 intermittent streams¹, and bodies of surface or ground water, whether
34 natural or artificial, located wholly or partially within the boundaries
35 of the Highlands Region¹, but shall not mean swimming pools¹.

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

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

3
4 5. (New section) a. The council shall consist of 15 voting
5 members to be appointed and qualified as follows:

6 (1) Eight residents of the counties of Bergen, Hunterdon, Morris,
7 Passaic, Somerset, Sussex, or Warren, appointed by the Governor,
8 with the advice and consent of the Senate, (a) ¹no more than four of
9 whom shall be of the same political party. (b) ¹ of whom five shall be
10 municipal officials ¹residing in the Highlands Region and ¹ holding
11 elective office at the time of appointment and three shall be county
12 officials holding elective office at the time of appointment, and ¹[(b)]
13 (c) ¹ among whom shall be ¹(i) ¹ at least one resident from each of the
14 counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex,
15 and Warren¹, and (ii) two residents from the county that has the
16 largest population residing in the Highlands Region, of whom no more
17 than one shall be of the same political party¹; and

18 (2) Seven residents of the State, ¹of whom five shall be¹ appointed
19 by the Governor, with the advice and consent of the Senate ¹, one shall
20 be appointed by the Governor upon the recommendation of the
21 President of the Senate, and one shall be appointed by the Governor
22 upon the recommendation of the Speaker of the General Assembly.
23 The members appointed pursuant to this paragraph shall have, to the
24 maximum extent practicable, expertise, knowledge, or experience in
25 water quality protection, natural resources protection, environmental
26 protection, agriculture, forestry, land use, or economic development,
27 and at least four of them shall be property owners, business owners,
28 or farmers in the Highlands Region or residents or nonresidents of the
29 Highlands Region who benefit from or consume water from the
30 Highlands Region¹.

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

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

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

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

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

5 e. The members of the council shall serve without compensation,
6 but the council may, within the limits ¹[or] of¹ funds appropriated or
7 otherwise made available for such purposes, reimburse its members for
8 necessary expenses incurred in the discharge of their official duties.

9 f. The powers of the council shall be vested in the members thereof
10 in office. A majority of the total authorized membership of the council
11 shall constitute a quorum ¹[except that] and¹ no action may be taken
12 by the council except upon the affirmative vote of a majority of the
13 ¹[quorum] total authorized membership of the council¹. No alternate
14 or designee of any council member shall exercise any power to vote on
15 any matter pending before the council.

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

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

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

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

39
40 6. (New section) The council shall have the following powers,
41 duties, and responsibilities, in addition to those prescribed elsewhere
42 in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) in Bergen County: Mahwah ¹[,]¹ and Oakland;

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

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

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

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

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

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

b. ¹(1)¹ The preservation area shall consist of ¹all¹ that area ¹within the boundaries¹ described ¹[by the Highlands Task Force, established by Executive Order No. 70 of 2003, and based upon natural resource data assembled by the United States Forest Service, Rutgers, The State University, and the New Jersey Water Supply Authority, which is to be translated, allowing for reasonable variations, by the Highlands Task Force with the assistance of Rutgers, The State University, the Department of Environmental Protection, and other appropriate entities, to appropriate and nearest practicable, on-the-ground, and easily identified reference points, such as, but not limited to, road descriptions, survey lines, and municipal boundaries, by May 1, 2004 or as soon thereafter as may be possible. This narrative description of the preservation area shall be enacted into law.] herein:

Beginning at the New Jersey and New York border and the intersection of State Highway 17 and Interstate 287 in northern Mahwah Township; thence southerly on Interstate 287 to its intersection with Ramapo Valley Road (U.S. Highway 202); thence southwesterly on Ramapo Valley Road (U.S. Highway 202) to its intersection with the Campgaw Mountain County Reservation, immediately south of Marion Drive; thence in a general northeastern direction along the boundary of the Campgaw Mountain County Reservation, until its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with the Mahwah Township and Oakland Borough corporate boundary; thence northwesterly along the Mahwah Township and Oakland Borough corporate boundary to its intersection with the Ramapo River; thence south on the east bank of the Ramapo River to its intersection with Interstate 287; thence westerly on Interstate 287 to its intersection with West Oakland Avenue; thence southerly and westerly on West Oakland Avenue to its intersection with Doty Road; thence southerly on Doty Road to its intersection with Ramapo Valley Road (U.S. Highway 202); thence westerly and southerly on Ramapo Valley Road (U.S. Highway 202) to its intersection with Long Hill Road (County Road 931); thence southerly on Long Hill Road (County Road 931) to its intersection with the Oakland Borough and Franklin Lakes Borough corporate boundary; thence southerly on the Oakland Borough and Franklin Lakes Borough corporate boundary to its intersection with the Oakland Borough corporate boundary; thence northwesterly along the Oakland Borough corporate boundary to the Wanaque Borough corporate boundary; thence westerly and southerly along the Wanaque Borough and Pompton Lakes Borough corporate boundary to its intersection with Ringwood Avenue (Alternate 511) to its intersection

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19
20 (2) Except as otherwise provided in paragraph (1) of this
21 subsection, any natural geographical feature, including a river, stream,
22 or brook, used in paragraph (1) of this subsection for the boundary
23 description of the preservation area shall be considered to lie totally
24 within the preservation area, and any road, railroad, or railroad right
25 of way used in paragraph (1) of this subsection for the boundary
26 description of the preservation area shall be considered to lie totally
27 outside of the preservation area. The use of property block and lot
28 designations include or exclude property from the preservation area.
29 Where a survey gore exists between a property boundary depicted
30 upon a municipal tax map and the limits of a surveyed property noted
31 in paragraph (1) of this subsection, the surveyed property boundary
32 description shall be considered to constitute the preservation area
33 boundary.¹

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

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

44
45 8. (New section) ¹a.¹ The council shall, within 18 months after the
46 date of its first meeting, and after holding at least five public hearings

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

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

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

15
16 9. (New section) a. During the preparation of the regional master
17 plan or any revision thereof, the council shall consult with the
18 Department of Environmental Protection, the Department of
19 Community Affairs, the State Planning Commission, the Department
20 of Agriculture, the State Agriculture ¹[and]¹ Development
21 Committee, ¹the Department of Transportation, and appropriate
22 officials of local ¹[governments] government units¹ and State,
23 regional, and federal ¹departments,¹ agencies ¹and other governmental
24 entities¹ with jurisdiction over lands, waters, and natural resources
25 within the Highlands Region, with interested professional, scientific,
26 and citizen organizations, and with any advisory groups that may be
27 established by the council. ¹The council shall also consult with the
28 Department of Transportation in preparing the transportation
29 component of the regional master plan.¹ The council shall review all
30 relevant federal, State, and private studies of the Highlands Region,
31 the State Development and Redevelopment Plan, municipal, county,
32 and regional plans, applicable federal and State laws and rules and
33 regulations, and other pertinent information on the Highlands Region.

34 b. Prior to adoption of, and in preparing, the regional master plan,
35 the council may, in conjunction with municipalities in the preservation
36 area, identify areas in which redevelopment shall be encouraged in
37 order to promote the economic well-being of the municipality,
38 provided that the redevelopment conforms ¹[to] with¹ the goals of the
39 preservation area and this act ¹, with the standards prescribed pursuant
40 to section 32 of this act,¹ and with the rules and regulations adopted
41 by the Department of Environmental Protection pursuant to sections
42 ¹[32] ~~33~~¹ and ¹[33] ~~34~~¹ of this act. ¹Any areas identified for possible
43 redevelopment pursuant to this subsection shall be either a brownfield
44 site designated by the Department of Environmental Protection or a
45 site at which at least 70% of the area thereof is covered with
46 impervious surface.¹

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

7 d.¹ Upon adoption of the regional master plan or any revision
8 thereof, copies thereof shall be transmitted to the Governor ¹[and
9 to],¹ the Legislature¹, the governing body of every municipality and
10 county located in the Highlands Region, and the State Planning
11 Commission¹.

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

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

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

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

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

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

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

33 (6) promote conservation of water resources;

34 (7) promote brownfield remediation and redevelopment;

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

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

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

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

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

1 purposes;

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

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

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

7 ¹[and] ¹

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

10 (7) promote conservation of water resources;

11 (8) promote brownfield remediation and redevelopment;

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

21 (10) promote a sound, balanced transportation system that is
22 consistent with smart growth strategies and principles and which
23 preserves mobility in the Highlands Region¹.

24

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

27 ¹[a.] (1)¹ A resource assessment which:

28 ¹[(1)] (a)¹ determines the amount and type of human development
29 and activity which the ecosystem of the Highlands Region can sustain
30 while still maintaining the overall ecological values thereof, with
31 special reference to surface and ground water quality and supply;
32 ¹contiguous forests and woodlands; ¹endangered and threatened
33 animals, plants, and biotic communities; ecological factors relating to
34 the protection and enhancement of agricultural ¹or horticultural¹
35 production or activity; air quality; and other appropriate
36 considerations affecting the ecological integrity of the Highlands
37 Region; ¹and¹

38 ¹[(2)] (b)¹ includes an assessment of scenic, aesthetic, cultural,
39 historic, open space, ¹[farm land] farmland¹, and outdoor recreation
40 resources of the region, together with a determination of overall
41 policies required to maintain and enhance such resources; ¹[and

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

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

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

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

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

19 ¹[c.] (3)¹ A component to provide for the maximum feasible local
20 government and public input into the council's operations, which shall
21 include a framework for developing policies for the planning area in
22 conjunction with those local government units ¹[with jurisdiction over
23 those lands] in the planning area¹ who choose to conform to the
24 regional master plan ¹[.]:¹

25 ¹[d.] (4)¹ A coordination and consistency component which details
26 the ways in which local, State, and federal programs and policies may
27 best be coordinated to promote the goals, purposes, policies, and
28 provisions of the regional master plan, and which details how land,
29 water, and structures managed by governmental or nongovernmental
30 entities in the public interest within the Highlands Region may be
31 integrated into the regional master plan¹;

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

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

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

8 (a) prepare a land use capability map;

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

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

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

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

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

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

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

37 b. The resource assessment, transportation component, and smart
38 growth component prepared pursuant to subsection a. of this section
39 shall be used only for advisory purposes in the planning area and shall
40 have no binding or regulatory effect therein¹.

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

1 which shall be based upon, comply with, and implement the
2 environmental standards ¹[set forth in section 31 of this act and as]¹
3 adopted by the Department of Environmental Protection pursuant to
4 sections ¹[32 through 33] 33 and 34¹ of this act¹, and the resource
5 assessment prepared pursuant to paragraph (1) of subsection a. of
6 section 11 of this act¹.

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

12 a. a preservation zone element that identifies zones within the
13 preservation area where development shall not occur in order to
14 protect water resources and environmentally sensitive lands ¹[that]
15 and which¹ shall be permanently preserved through ¹use of¹ a variety
16 of tools, including ¹but not limited to land¹ acquisition and the¹
17 transfer of development rights; and

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

25
26 13. (New section) a. The council shall ¹[develop and implement]
27 use the regional master plan elements prepared pursuant to sections 11
28 and 12 of this act, including the resource assessment and the smart
29 growth component, to establish¹ a transfer of development rights
30 program for the Highlands Region ¹that furthers the goals of the
31 regional master plan. The transfer of development rights program
32 shall be¹ consistent with ¹the "State Transfer of Development Rights
33 Act," P.L.2004, c.2 (C.40:55D-137 et seq.) or¹ any ¹applicable¹
34 transfer of development rights program created otherwise by law¹,
35 except as otherwise provided in this section¹.

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

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

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

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

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

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

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

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

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

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

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

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

23 ¹[(c) The] (3) Any¹ bank ¹established by the council¹ shall operate
24 in accordance with provisions of general law authorizing the creation
25 of development transfer banks by municipalities and counties.

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

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

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

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

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

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

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

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

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

46 No impact fee authorized under this subsection shall include a

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

6
7 14. (New section) a. Within ¹[six months] nine to 15 months¹
8 after the date of adoption of the regional master plan or any revision
9 thereof, ¹according to a schedule to be established by the council.¹
10 each municipality located wholly or partially in the preservation area
11 shall submit to the council such revisions of the municipal master plan
12 and development regulations, as applicable to the development and use
13 of land in the preservation area, as may be necessary in order to
14 conform them with the goals, requirements, and provisions of the
15 regional master plan. After receiving and reviewing the revisions, the
16 council shall approve, reject, or approve with conditions the revised
17 plan and development regulations, as it deems appropriate, after public
18 hearing, within 60 days after the date of submission thereof.

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

24 b. Within ¹[six months] nine to 15 months¹ after the date of
25 adoption of the regional master plan or any revision thereof,
26 ¹according to a schedule to be established by the council.¹ each county
27 located wholly or partially in the preservation area shall submit to the
28 council such revisions of the county master plan and associated
29 regulations, as applicable to the development and use of land in the
30 preservation area, as may be necessary in order to conform them with
31 the goals, requirements, and provisions of the regional master plan.
32 After receiving and reviewing the revisions, the council shall approve,
33 reject, or approve with conditions those revised plans and associated
34 regulations, as it deems appropriate, after public hearing, within 60
35 days after the date of submission thereof.

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

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

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

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

22 e. A municipality or county may adopt revisions to its master plan,
23 development regulations, or other regulations for the purposes of this
24 section that are stricter¹, as determined by the council,¹ than the
25 minimum necessary to obtain approval of conformance with the
26 regional master plan.

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

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

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

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

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

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

13 ¹[c.] (3)¹ Any municipality approved by the council to be in
14 conformance with the regional master plan pursuant to this ¹[section]
15 subsection¹ shall be entitled to any financial or other assistance or
16 incentives received by a municipality from the State as a benefit or
17 result of obtaining council approval pursuant to section 14 of this act.

18 ¹(4)¹ Upon the commencement of each reexamination by the
19 municipality of its master plan and development regulations as
20 required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89)
21 ¹which have been previously approved by the council to be in
22 conformance with the regional master plan pursuant to this
23 subsection¹, the municipality shall so notify the council and, thereafter,
24 submit to the council the draft revision of its master plan and
25 development regulations for review, by the council, of conformance
26 with the regional master plan. If, after conducting the reexamination,
27 the municipality does not resubmit to the council its master plan and
28 development regulations as they pertain to the planning area and
29 obtain reapproval thereof from the council in accordance with this
30 ¹[section] subsection¹, or if the council finds the reexamined master
31 plan ¹or development regulations¹ not to be in conformance with the
32 regional master plan, the council may require the municipality to
33 reimburse the council or the State, as appropriate, in whole or in part
34 for any financial or other assistance or incentives received by the
35 municipality from the State as a benefit or result of obtaining council
36 approval pursuant to this ¹[section] subsection¹.

37 ¹[e.] (5)¹ A municipality may adopt revisions to its master plan or
38 development regulations for the purposes of this ¹[section]
39 subsection¹ that are stricter¹, as determined by the council,¹ than the
40 minimum necessary to obtain approval of conformance with the
41 regional master plan.

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

1 master plan.

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

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

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

16 ¹[h.] (3)¹ Any county approved by the council to be in
17 conformance with the regional master plan pursuant to this ¹[section]
18 subsection¹ shall be entitled to any financial or other assistance or
19 incentives received by a county from the State as a benefit or result of
20 obtaining council approval pursuant to section 14 of this act.

21
22 ¹[16. (New section) a. For the purposes of subsection a. of
23 section 37 of P.L.1975, c.291 (C.40:55D-49), any amendments made
24 to a major subdivision or a site plan ordinance pursuant to this act to
25 conform it to the regional master plan shall be construed to relate to
26 public health and safety for any major development that has received
27 preliminary approval prior to the amendment of a major subdivision or
28 site plan ordinance pursuant to this act. An amendment made to a
29 major subdivision or site plan ordinance pursuant to this act shall not
30 be construed to relate to public health and safety if the major
31 development is a residential development that requires an
32 environmental land use or water permit but which does not result in
33 the ultimate disturbance of one acre or more of land or an increase in
34 impervious surface by one-quarter acre or more.

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

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

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

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

10
11 ¹[17.] 16.¹ (New section) a. The council may ¹[prepare and
12 distribute suggested guidelines for the location and construction of
13 capital projects by State entities or local government units within the
14 Highlands Region] provide comments and recommendations on any
15 capital or other project proposed to be undertaken by any State entity
16 or local government unit in the Highlands Region¹.

17 b. Within the preservation area, any capital or other project of a
18 State entity or local government unit that involves the ultimate
19 disturbance of two acres or more of land or ¹[an] a cumulative¹
20 increase in impervious surface by one acre or more shall be submitted
21 to the council for review¹, except that no such submission shall be
22 required for (1) the routine maintenance and operations, rehabilitation,
23 preservation, reconstruction, or repair of transportation or
24 infrastructure systems by a State entity or local government unit,
25 provided that the activity is consistent with the goals and purposes of
26 this act and does not result in the construction of any new through-
27 capacity travel lanes, or (2) the construction of transportation safety
28 projects and bicycle and pedestrian facilities, provided that the activity
29 does not result in the construction of any new through-capacity travel
30 lanes¹. The council shall establish procedures for conducting such
31 reviews and shall have the power to approve, approve with conditions,
32 or disapprove the project. No such project shall proceed without the
33 approval of the council; provided that, in the case of a project of a
34 State entity, if the council disapproves the project, the head of the
35 appropriate principal department of State government with primary
36 responsibility for the project may override the council's disapproval
37 upon making a written finding, which shall be submitted to the council
38 and the Governor, that the project is necessary for public health,
39 safety, or welfare and including with that finding a factual basis and
40 explanation in support thereof. In the case of a project of an
41 independent State authority or commission or a bi-state entity, any
42 such finding shall be made by the Governor or such other State
43 governmental official as the Governor may designate for that purpose.

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

1 mutually agreed upon by the parties, the project shall be deemed
2 approved.¹

3 c. Within the planning area, any capital or other project of a State
4 entity or local government unit that provides for the ultimate
5 disturbance of two acres or more of land or ¹[an] a cumulative ¹
6 increase in impervious surface by one acre or more shall be submitted
7 to the council for a nonbinding review and comment¹, except that no
8 such submission shall be required for (1) the routine maintenance and
9 operations, rehabilitation, preservation, reconstruction, or repair of
10 transportation or infrastructure systems by a State entity or local
11 government unit, provided that the activity is consistent with the goals
12 and purposes of this act and does not result in the construction of any
13 new through-capacity travel lanes, or (2) the construction of
14 transportation safety projects and bicycle and pedestrian facilities by
15 a State entity or local government unit, provided that the activity does
16 not result in the construction of any new through-capacity travel
17 lanes¹. The council shall establish procedures for conducting such
18 reviews ¹within 30 days after receipt or within such other time period
19 as may be mutually agreed upon by the parties¹. The failure of the
20 council to act ¹[expeditiously] within the 30-day or other agreed upon
21 time period¹ on any such review pursuant to this subsection shall not
22 be cause for delay of the project, and the project may proceed whether
23 or not the council has conducted the review ¹authorized pursuant to
24 this subsection¹.

25

26 ¹[18.] 17.¹ (New section) a. ¹(1)¹ Subsequent to adoption of the
27 regional master plan, the council may review, within 15 days after any
28 final local government unit approval¹, rejection, or approval with
29 conditions¹ thereof, any application for development in the
30 preservation area. Upon determining to exercise that authority, the
31 council shall transmit, by certified mail, written notice thereof to the
32 person who submitted the application ¹to the local government unit¹.
33 The council shall, after public hearing thereon, approve, reject, or
34 approve with conditions any such application ¹or decision¹ within 60
35 days after transmitting the notice; provided, however, that an
36 application shall not be rejected or conditionally approved unless the
37 council determines that the development does not conform with the
38 regional master plan, as applicable to the local government unit
39 wherein the development is located, or that the development could
40 result in substantial impairment of the resources of the Highlands
41 Region. Such approval, rejection, or conditional approval shall be
42 binding upon the person who submitted the application, shall
43 supersede any local government unit ¹[approval of] decision on¹ any
44 such development, and shall be subject only to judicial review as
45 provided in section ¹[29] 28¹ of this act. ¹Pending completion of the
46 review by the council of any final local government approval or

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

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

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

18 c. Notwithstanding any provision of subsections a. or b. of this
19 section to the contrary, for any municipality or county that has
20 adopted an approved revised master plan, development regulations, or
21 other regulations, as the case may be, including any condition thereto
22 imposed by the council, the requirements of this section shall apply
23 only to applications for development that provide for the ultimate
24 disturbance of two acres or more of land or ¹[an] a cumulative¹
25 increase in impervious surface by one acre or more. The council¹,
26 however,¹ may provide, pursuant to subsection d. of section 14 of this
27 act, that the requirements of this section apply to any application for
28 development within the preservation area in any municipality or county
29 that fails to adopt or enforce an approved revised master plan,
30 development regulations, or other regulations, as the case may be,
31 including any condition thereto imposed by the council.

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

35
36 ¹[19.] 18.¹ (New section) a. Any municipality in the Highlands
37 Region whose municipal master plan and development regulations, and
38 any county in the Highlands Region whose county master plan and
39 associated regulations, have been approved by the council to be in
40 conformance with the regional master plan in accordance with sections
41 14 or 15 of this act shall qualify for State aid, planning assistance,
42 technical assistance, and other benefits and incentives that may be
43 awarded or provided by the State to municipalities and counties which
44 have received plan endorsement ¹by the State Planning Commission¹
45 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
46 et al.) or which otherwise practice or implement smart growth

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

4 b. The council ¹[may] shall¹ make available grants and other
5 financial and technical assistance to municipalities and counties for any
6 revision of their master plans, development regulations, or other
7 regulations which is designed to bring those plans, development
8 regulations, or other regulations into conformance with the regional
9 master plan or for implementation of a transfer of development rights
10 program pursuant to this act. ¹The grants and other financial
11 assistance shall pay for the reasonable expenses therefor incurred by
12 a municipality or county and shall be distributed according to such
13 procedures and guidelines as may be established by the council.¹ The
14 council ¹[may] shall¹ make the grants and other financial assistance
15 from any State, federal, or other funds that ¹[may] shall ¹be
16 appropriated or otherwise made available to it for that purpose¹,
17 including monies required to be made available therefor from the
18 "Highlands Protection Fund" created pursuant to section 21 of this
19 act¹.

20

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

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

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

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

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

12 e. This section shall expire July 1 next following five years after the
13 date of enactment of this act.]¹

14

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 n. As used in this section:

43 "Base year" means the calendar year 2003;

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

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

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

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

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

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

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

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

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

36
37 ¹20. (New section) a. The "Pinelands Property Tax Assistance
38 Fund" is established in the General Fund as a special nonlapsing fund
39 for the purpose of providing State aid to qualifying municipalities in
40 the pinelands area. The Commissioner of Community Affairs shall
41 serve as administrator of the fund.

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

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

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

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

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

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

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

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

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

37 j. As used in this section:

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

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

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

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

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

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

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

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

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

30

31 ¹[21.] 22.¹ (New section) The ¹[Attorney General] council¹ shall
 32 provide legal representation to any requesting local government unit
 33 located in the Highlands Region in any cause of action filed against the
 34 local government unit and contesting an act or decision of the local
 35 government unit taken or made under authority granted pursuant to
 36 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),
 37 R.S.40:27-1 et seq., the "State Uniform Construction Code Act,"
 38 P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

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

44 b. the council ¹[has certified in writing to the Attorney General]
 45 determines¹ that the act or decision of the local government unit which
 46 is the subject of the cause of action is consistent with the regional

1 master plan¹; and

2 c. the act or decision of the local government unit that is the
3 subject of the cause of action involves an application for development
4 that provides for the ultimate disturbance of two acres or more of land
5 or a cumulative increase in impervious surface by one acre or more¹.
6

7 ¹[22.] 23.¹ (New section) Within 10 days after the date of
8 enactment of this act, the Department of Community Affairs, in
9 consultation with the Department of Environmental Protection, shall
10 provide guidelines and instructions to all local government units
11 located wholly or partially within the preservation area with respect to
12 the processing, review, and enforcement of applications for
13 development after the date of enactment of this act and before
14 adoption of the regional master plan.
15

16 ¹[23.] 24.¹ (New section) The municipal master plan and
17 development regulations of any municipality, and the county master
18 plan and associated regulations of any county, located in the Highlands
19 Region which have been approved by the council to be in conformance
20 with the regional master plan in accordance with sections 14 or 15 of
21 this act shall be entitled to a strong presumption of validity. In any
22 cause of action filed against such a local government unit and
23 contesting an act or decision of the local government unit taken or
24 made under authority granted pursuant to the "Municipal Land Use
25 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the
26 "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-
27 119 et seq.), or this act, the court shall give extraordinary deference
28 to the local government unit, provided that the municipal master plan
29 and development regulations, or, in the case of a county governmental
30 entity, the county master plan and associated regulations, have been
31 approved by the council to be in conformance with the regional master
32 plan in accordance with sections 14 or 15 of this act. The plaintiff
33 shall have the burden of proof to demonstrate by clear and convincing
34 evidence that the act or decision of any such local government unit
35 was arbitrary, capricious, or unreasonable or in patent abuse of
36 discretion.
37

38 ¹[24.] 25.¹ (New section) a. The Council on Affordable Housing
39 shall take into consideration the regional master plan prior to making
40 any determination regarding ¹the allocation of¹ the prospective fair
41 share of the housing need in any municipality in the Highlands Region
42 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)
43 ¹for the fair share period subsequent to 1999¹.
44

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

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

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

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

17

18 ¹[25.] 26.¹ (New section) Within 90 days after the first meeting
19 of the Highlands Water Protection and Planning Council, the Site
20 Improvement Advisory Board established pursuant to section 3 of
21 P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community
22 Affairs shall consult with the council and the Commissioner of
23 Environmental Protection concerning whether the site improvement
24 standards for residential development adopted pursuant to P.L.1993,
25 c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently
26 protective for the Highlands Region, especially for the preservation
27 area; and if it is determined they are not, those standards shall be
28 modified accordingly as soon as practicable ¹thereafter¹ to meet that
29 objective.

30

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

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

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

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

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

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

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

1 marriage, or adoption.]]¹

2

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

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

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

20

21 ¹[28.] 27.¹ (New section) The council may institute an action or
22 proceeding in Superior Court for injunctive relief for any violation of
23 this act, or any rule or regulation adopted pursuant thereto, or, in the
24 preservation area for any violation of, or nonconformance with, the
25 regional master plan ¹[, and the court may proceed in the action in a
26 summary manner]. The council may also institute an action or
27 proceeding for injunctive relief for any violation of the regional master
28 plan in the planning area as it relates to a municipality or county that
29 has been approved to be in conformance with the regional master plan
30 pursuant to section 15 of this act¹. In any ¹action or¹ proceeding
31 brought pursuant to this section, the court ¹may proceed in a summary
32 manner and¹ may also grant temporary or interlocutory relief.

33

34 ¹[29.] 28.¹ (New section) Any decision rendered or action taken
35 by the council pursuant to this act shall be a final agency action subject
36 to judicial review in the Appellate Division of the Superior Court of
37 New Jersey in accordance with the Rules of Court. The court may
38 grant such relief as it deems just and proper, and to make and enter an
39 order enforcing, modifying, and enforcing as so modified, remanding
40 for further specific evidence or findings, or setting aside in whole or
41 in part, the decision of the council. The findings of fact upon which
42 the council's decision is based shall be conclusive if supported by
43 substantial evidence on the record considered as a whole.

44

45 ¹[30.] 29.¹ (New section) On or before March 31 in each year the
46 council shall make an annual report of its activities for the preceding

1 calendar year to the Governor ¹[and],¹ the Legislature¹, and the
2 governing body and the chief executive officer of each municipality
3 and county in the Highlands Region¹. Each such report shall set forth
4 a complete operating and financial statement covering its operations
5 during the year.

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

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

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

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

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

27 (i) preliminary or final site plan approval;

28 (ii) final municipal building or construction permit;

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

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

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

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

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

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

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

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

1 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

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

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

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

14 The exemption provided in this paragraph shall apply only to the
15 land area and the scope of the major Highlands development addressed
16 by the qualifying approvals pursuant to subparagraphs (a) and (b), or
17 (c) if applicable, of this paragraph, shall expire if any of those
18 qualifying approvals expire, and shall expire if construction beyond site
19 preparation does not commence within three years after the date of
20 enactment of this act;

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

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

32 (6) any improvement, for non-residential purposes, to a place of
33 worship owned by a nonprofit entity, society or association, or
34 association organized primarily for religious purposes, or a public or
35 private school, or a hospital, in existence on the date of enactment of
36 this act, including but not limited to new structures, an addition to an
37 existing building or structure, a site improvement, or a sanitary facility;

38 (7) an activity conducted in accordance with an approved woodland
39 management plan pursuant to section 3 of P.L.1964, c.48
40 (C.54:4-23.3) or the normal harvesting of forest products in
41 accordance with a forest management plan approved by the State
42 Forester;

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

46 (9) the routine maintenance and operations, rehabilitation,

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

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

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

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

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

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

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

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

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

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

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

1 d. Nothing in this act shall be construed to repeal, reduce, or
2 otherwise modify the obligation of counties, municipalities, and other
3 municipal and public agencies of the State to pay property taxes on
4 lands used for the purpose and for the protection of a public water
5 supply, without regard to any buildings or other improvements
6 thereon, pursuant to R.S.54:4-3.3.¹

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

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

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

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

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

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

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

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

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

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

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

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

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

27
28 ¹[31.] 32.¹ (New section) a. Commencing on the date of
29 enactment of this act and until the effective date of the rules and
30 regulations adopted by the Department of Environmental Protection
31 pursuant to sections ¹[32 and 33] 33 and 34¹ of this act, all major
32 ¹Highlands¹ development in the preservation area shall require a
33 Highlands Preservation Area approval from the department. The
34 Highlands Preservation Area approval shall consist of the related
35 aspects of other regulatory programs which may include, but need not
36 be limited to, the "Freshwater Wetlands Protection Act," P.L.1987,
37 c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species
38 Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water
39 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the
40 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),
41 "The Realty Improvement Sewerage and Facilities Act (1954),"
42 P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning
43 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water
44 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area
45 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and
46 regulations adopted pursuant thereto. For the purposes of this section,

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

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

5 (1) a prohibition on major ¹Highlands¹ development within 300 feet
6 of any Highlands open waters, and a 300-foot buffer adjacent to all
7 Highlands open waters¹; provided, however, that this buffer shall not
8 extend into the planning area¹. For the purposes of this paragraph,
9 major ¹Highlands¹ development does not include linear development
10 for infrastructure, utilities, and the rights-of-way therefor, provided
11 that there is no other feasible alternative¹, as determined by the
12 department,¹ for the linear development outside of the buffer.
13 Structures or land uses in the buffer existing on the date of enactment
14 of this act may remain, provided that the area of disturbance shall not
15 be increased. This paragraph shall not be construed to limit the
16 authority of the department to establish buffers of any size or any
17 other protections for category one waters designated by the
18 department pursuant to the "Water Pollution Control Act," P.L.1977,
19 c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation
20 adopted pursuant thereto, for major ¹Highlands¹ development or for
21 other development that does not qualify as major ¹Highlands¹
22 development;

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

33 (3) notwithstanding the provisions of subsection a. of section 5 of
34 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted
35 pursuant thereto, to the contrary, any diversion of more than 50,000
36 gallons per day, and multiple diversions by the same or related entities
37 for the same or related projects or developments of more than 50,000
38 gallons per day, of waters of the Highlands shall require a permit
39 pursuant to the "Water Supply Management Act," P.L.1981, c.262
40 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be
41 based on consideration of individual and cumulative impacts of
42 multiple diversions, maintenance of stream base flows, minimization
43 of depletive use, maintenance of existing water quality, and protection
44 of ecological uses¹. Any new or increased diversion for nonpotable
45 purposes that is more than 50% consumptive shall require an
46 equivalent reduction in water demand within the same subdrainage

1 area through such means as groundwater recharge of stormwater or
2 reuse. Existing unused allocation or allocations used for nonpotable
3 purposes may be revoked by the department where measures to the
4 maximum extent practicable are not implemented to reduce demand.
5 All new or increased diversions shall be required to implement water
6 conservation measures to the maximum extent practicable¹;

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

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

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

17 (7) a prohibition on development, except linear development for
18 infrastructure, utilities, and the rights-of-way therefor, provided that
19 no other feasible alternative¹, as determined by the department,¹ exists
20 for the linear development, on steep slopes with a grade of 20% or
21 greater; and

22 (8) a prohibition on development that disturbs upland forested
23 areas, in order to prevent soil erosion and sedimentation, protect water
24 quality, prevent stormwater runoff, and protect threatened and
25 endangered animal and plant species sites and designated habitats.
26 Notwithstanding the provisions of this paragraph to the contrary, if a
27 major ¹Highlands¹ development complies with all other applicable
28 requirements for a Highlands Preservation Area ¹[review] approval¹
29 pursuant to this subsection and disturbance to an upland forested area
30 is unavoidable, the department shall allow the disturbance to an upland
31 forested area of no more than 20 feet directly adjacent to a structure
32 and of no more than 10 feet on each side of a driveway as necessary
33 to access a non-forested area of a site.

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

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

d. The requirements and provisions of this section shall not apply in the planning area.¹

¹[32.] 33.¹ (New section) a. Within 270 days after the date of enactment of this act, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Environmental Protection, after consultation with the Department of Agriculture, the Department of Community Affairs, ¹[and],¹ the State Planning Commission,¹ and the Department of Transportation,¹ shall, immediately upon filing proper notice with the Office of Administrative Law, adopt the rules and regulations prepared by the department pursuant to section ¹[33] 34¹ of this act and any other rules and regulations necessary to establish the Highlands permitting review program established pursuant to section ¹[34] 35¹ of this act.

b. The rules and regulations adopted pursuant to subsection a. of this section shall be in effect for a period not to exceed one year after the date of the filing. These rules and regulations shall thereafter be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," after consultation with the council, the Department of Agriculture, the Department of Community Affairs, ¹[and]¹ the State Planning Commission¹, and the Department of Transportation¹.

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

The requirements and provisions of sections 33 through 43 of this act shall not apply in the planning area.¹

¹[33.] 34.¹ (New section) The Department of Environmental Protection shall prepare rules and regulations establishing the environmental standards for the preservation area upon which the regional master plan adopted by the council and the Highlands permitting review program administered by the department pursuant

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

3 a. a prohibition on major ¹Highlands¹ development within 300 feet
4 of any Highlands open waters, and the establishment of a 300-foot
5 buffer adjacent to all Highlands open waters¹; provided, however, that
6 this buffer shall not extend into the planning area¹. For the purposes
7 of this subsection, major ¹Highlands¹ development does not include
8 linear development for infrastructure, utilities, and the rights-of-way
9 therefor, provided that there is no other feasible alternative¹, as
10 determined by the department,¹ for the linear development outside of
11 the buffer. Structures or land uses in the buffer existing on the date of
12 enactment of this act may remain, provided that the area of disturbance
13 shall not be increased. This subsection shall not be construed to limit
14 any authority of the department to establish buffers of any size or any
15 other protections for category one waters designated by the
16 department pursuant to the "Water Pollution Control Act," P.L.1977,
17 c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation
18 adopted pursuant thereto, for major ¹Highlands¹ development or for
19 other development that does not qualify as major ¹Highlands¹
20 development;

21 b. measures to ensure that existing water quality shall be
22 maintained, restored, or enhanced¹, as required pursuant to the "Water
23 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the
24 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),
25 or any rule or regulation adopted pursuant thereto,¹ in all Highlands
26 open waters and waters of the Highlands, and ¹to¹ provide that any
27 new or expanded point source discharge, except discharges from water
28 supply facilities, shall not degrade existing water quality. In the case
29 of water supply facilities, all reasonable measures shall be taken to
30 eliminate or minimize water quality impacts;

31 c. notwithstanding the provisions of section 23 of P.L.1987, c.156
32 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to
33 the contrary, the criteria for the type of activity or activities eligible
34 for the use of a general permit for ¹any portion of¹ an activity located
35 ¹[wholly or partially]¹ within a freshwater wetland or freshwater
36 wetland transition area located ¹[wholly or partially]¹ in the
37 preservation area, provided that these criteria are at least as protective
38 as those provided in section 23 of P.L.1987, c.156 (C.13:9B-23);

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

1 thereto shall be based on consideration of individual and cumulative
2 impacts of multiple diversions, maintenance of stream base flows,
3 minimization of depletive use, maintenance of existing water quality,
4 and protection of ecological uses¹. Any new or increased diversion for
5 nonpotable purposes that is more than 50% consumptive shall require
6 an equivalent reduction in water demand within the same subdrainage
7 area through such means as groundwater recharge of stormwater or
8 reuse. Existing unused allocation or allocations used for nonpotable
9 purposes may be revoked by the department where measures to the
10 maximum extent practicable are not implemented to reduce demand.
11 All new or increased diversions shall be required to implement water
12 conservation measures to the maximum extent practicable¹;

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

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

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

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

27 i. notwithstanding the provisions of the "Safe Drinking Water Act,"
28 P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation
29 adopted pursuant thereto, to the contrary, a limitation or prohibition
30 on the construction of new public water systems or the extension of
31 existing public water systems ¹to serve development in the
32 preservation area¹, except in the case of a demonstrated need to
33 protect public health and safety;

34 j. a prohibition on development, except linear development for
35 infrastructure, utilities, and the rights-of-way therefor, provided that
36 no other feasible alternative¹, as determined by the department,¹ exists
37 for the linear development, on steep slopes in the preservation area
38 with a grade of 20% or greater, and standards for development on
39 slopes in the preservation area exhibiting a grade of between 10% and
40 20%. The standards shall assure that developments on slopes
41 exhibiting a grade of between 10% and 20% preserve and protect
42 steep slopes from the negative consequences of development on the
43 site and the cumulative impact in the Highlands Region. The standards
44 shall be developed to prevent soil erosion and sedimentation, protect
45 water quality, prevent stormwater runoff, protect threatened and
46 endangered animal and plant species sites and designated habitats,

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

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

18
19 ¹[34.] 35.¹ (New section) a. The Department of Environmental
20 Protection shall establish a Highlands permitting review program to
21 provide for the coordinated review of any major ¹Highlands¹
22 development in the preservation area based upon the rules and
23 regulations adopted by the department pursuant to sections ¹[32 and
24 33] 33 and 34¹ of this act. The Highlands permitting review program
25 established pursuant to this section shall consolidate the related
26 aspects of other regulatory programs which may include, but need not
27 be limited to, the "Freshwater Wetlands Protection Act," P.L.1987,
28 c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species
29 Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water
30 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the
31 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),
32 "The Realty Improvement Sewerage and Facilities Act (1954),"
33 P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning
34 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water
35 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area
36 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and
37 regulations adopted pursuant thereto, and the rules and regulations
38 adopted pursuant to sections ¹[32 and 33] 33 and 34¹ of this act. For
39 the purposes of this section, the provisions of P.L.1975, c.232
40 (C.13:1D-29 et seq.) shall not apply to an application for a permit
41 pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19
42 (C.58:16A-50 et seq.).

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

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

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

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

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

19 ¹[(c)] (2)¹ a provision that may allow for a waiver of any provision
20 of a Highlands permitting review on a case-by-case basis for
21 redevelopment in certain previously developed areas in the
22 preservation area identified by the council pursuant to subsection b. of
23 section 9 ¹or subparagraph (h) of paragraph (6) of subsection a. of
24 section 11¹ of this act; and

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

28 The grant of a waiver pursuant to ¹[subparagraphs (a), (b), (c), or
29 (d) of this paragraph] this subsection¹ by the department shall be
30 conditioned upon the department's determination that the major
31 ¹Highlands¹ development meets the requirements prescribed for a
32 finding as listed in subsection a. of section ¹[35] 36¹ of this act to the
33 maximum extent possible.

34 c. The ¹[limited review provision of paragraph (1) of subsection
35 b. of this section and the]¹ waiver provisions of ¹[paragraph (2) of]¹
36 subsection b. of this section are limited to the provisions of the rules
37 and regulations adopted pursuant to section ¹[33] 34¹ of this act, and
38 shall not limit the department's jurisdiction or authority pursuant to
39 any other provision of law, or any rule or regulation adopted pursuant
40 thereto, that is incorporated into the Highlands permitting review
41 program.

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

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

2 e. Any person proposing to construct or cause to be constructed,
3 or to undertake or cause to be undertaken, as the case may be, a major
4 ¹Highlands¹ development in the preservation area shall file an
5 application for a Highlands permitting review with the department, on
6 forms and in a manner prescribed by the department.

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

18

19 ¹[35.] 36.¹ (New section) a. The Commissioner of Environmental
20 Protection shall review filed applications for Highlands permitting
21 reviews, including any information presented at public hearings or
22 during a comment period, or submitted during the application review
23 period.

24 Except as otherwise provided by subsection b. of this section, a
25 Highlands permitting review approval may be issued only upon a
26 finding that the proposed major ¹Highlands¹ development:

27 (1) would have a de minimis impact on water resources and would
28 not cause or contribute to a significant degradation of surface or
29 ground waters. In making this determination, the commissioner shall
30 consider the extent of any impacts on water resources resulting from
31 the proposed major ¹Highlands¹ development, including, but not
32 limited to, the regenerative capacity of aquifers or other surface or
33 ground water supplies, increases in stormwater generated, increases in
34 impervious surface, increases in stormwater pollutant loading, changes
35 in land use, and changes in vegetative cover;

36 (2) would cause minimal feasible interference with the natural
37 functioning of animal, plant, and other natural resources at the site and
38 within the surrounding area, and minimal feasible individual and
39 cumulative adverse impacts to the environment both onsite and offsite
40 of the major ¹Highlands¹ development;

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

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

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

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

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

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

b. A Highlands permitting review approval may be issued to a major ¹Highlands¹ development¹ [subject to a limited review pursuant to paragraph (1) of subsection b. of section 34 of this act or]¹ granted a waiver pursuant to the provisions of ¹[paragraph (2) of]¹ subsection b. of section ¹[34] ¹35¹ of this act notwithstanding the inability to make the finding required pursuant to subsection a. of this section.

¹[36.] ¹37.¹ (New section) a. Whenever the Commissioner of Environmental Protection finds that a person has violated any provision of section ¹[31] ¹32¹ of this act, a Highlands permitting review approval issued pursuant to section ¹[35] ¹36¹ of this act, or any rule or regulation adopted pursuant to sections ¹[32 and 33] ¹33 and ¹34¹ of this act, the commissioner may:

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

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

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

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

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

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

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of section ¹[31] ¹32¹ of this act, a Highlands permitting review approval issued pursuant to section ¹[35] ¹36¹ of this act, or any rule or regulation adopted pursuant to sections ¹[32 and 33] ¹33 and ¹34¹ of this act, the commissioner may issue an order: (1) specifying the provision or provisions of the ¹law, ¹ rule, regulation, permit, approval, or

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

6 c. The commissioner is authorized to institute a civil action in
7 Superior Court for appropriate relief from any violation of any
8 provision of section ¹[31] 32¹ of this act, a Highlands permitting
9 review approval issued pursuant to section ¹[35] 36¹ of this act, or
10 any rule or regulation adopted pursuant to sections ¹[32 and 33] 33
11 and 34¹ of this act. Such relief may include, singly or in combination:

12 (1) A temporary or permanent injunction;

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

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

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

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

26 d. The commissioner is authorized to assess a civil administrative
27 penalty of up to \$25,000 for each violation of any provision of section
28 ¹[31] 32¹ of this act, a Highlands permitting review approval issued
29 pursuant to section ¹[35] 36¹ of this act, or any rule or regulation
30 adopted pursuant to sections ¹[32 and 33] 33 and 34¹ of this act, and
31 each day during which each violation continues shall constitute an
32 additional, separate, and distinct offense. Any amount assessed under
33 this subsection shall fall within a range established by regulation by the
34 commissioner for violations of similar type, seriousness, and duration.

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

38 assessment shall be levied pursuant to this section until after the party
39 has been notified by certified mail or personal service. The notice
40 shall: (1) identify the section of the ¹law,¹ rule, regulation, permit,
41 approval, or authorization violated; (2) recite the facts alleged to
42 constitute a violation; (3) state the amount of the civil penalties to be
43 imposed; and (4) affirm the rights of the alleged violator to a hearing.
44 The ordered party shall have 20 days from receipt of the notice within
45 which to deliver to the commissioner a written request for a hearing.
46 After the hearing and upon finding that a violation has occurred, the

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

14 e. A person who violates any provision of section ¹[31] 32¹ of this
15 act, a Highlands permitting review approval issued pursuant to section
16 ¹[35] 36¹ of this act, or any rule or regulation adopted pursuant to
17 sections ¹[32 and 33] 33 and 34¹ of this act, an administrative order
18 issued pursuant to subsection b. of this section, or a court order issued
19 pursuant to subsection c. of this section, or who fails to pay a civil
20 administrative penalty in full pursuant to subsection d. of this section,
21 shall be subject, upon order of a court, to a civil penalty not to exceed
22 \$10,000 per day of such violation, and each day during which the
23 violation continues shall constitute an additional, separate, and distinct
24 offense. Any civil penalty imposed pursuant to this subsection may be
25 collected with costs in a summary proceeding pursuant to the "Penalty
26 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
27 ¹In addition to any penalties, costs or interest charges, the court may
28 assess against the violator the amount of actual economic benefit
29 accruing to the violator from the violation.¹ The Superior Court and
30 the municipal court shall have jurisdiction to enforce the provisions of
31 the "Penalty Enforcement Law of 1999" in connection with this act.

32 f. A person who purposely or negligently violates any provision of
33 section ¹[31] 32¹ of this act, a Highlands permitting review approval
34 issued pursuant to section ¹[35] 36¹ of this act, or any rule or
35 regulation adopted pursuant to sections ¹[32 and 33] 33 and 34¹ of
36 this act, shall be guilty, upon conviction, of a crime of the fourth
37 degree and, notwithstanding any provision of N.J.S.2C:43-3 to the
38 contrary, shall be subject to a fine of not less than \$2,500 nor more
39 than \$25,000 per day of violation, in addition to any other applicable
40 penalties and provisions under Title 2C of the New Jersey Statutes.
41 A second or subsequent offense under this subsection shall subject the
42 violator to a fine, notwithstanding any provision of N.J.S.2C:43-3 to
43 the contrary, of not less than \$5,000 nor more than \$50,000 per day
44 of violation, in addition to any other applicable penalties and
45 provisions under Title 2C of the New Jersey Statutes. A person who
46 knowingly makes a false statement, representation, or certification in

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

g. In addition to the penalties prescribed in this section, a notice of violation of any provision of section ¹[31] 32¹ of this act, a Highlands permitting review approval issued pursuant to section ¹[35] 36¹ of this act, or any rule or regulation adopted pursuant to sections ¹[32 and 33] 33 and 34¹ of this act, shall be recorded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and with the clerk of the Superior Court and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed.

h. The department may require an applicant or permittee to provide any information the department requires to determine compliance with any provision of section ¹[31] 32¹ of this act, a Highlands permitting review approval issued pursuant to section ¹[35] 36¹ of this act, or any rule or regulation adopted pursuant to sections ¹[32 and 33] 33 and 34¹ of this act.

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

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

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

¹[37.] 38.¹ (New section) Notwithstanding the provisions P.L.1987, c.156 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, major ¹Highlands¹ development as defined in section 3 of P.L. , c. (C.) (now before the Legislature as this bill) that includes a regulated activity as defined in section 3 of P.L.1987, c.156 (C.13:9B-3) in a freshwater wetland or freshwater wetland transition area located ¹[wholly or partially]¹ in the Highlands

1 preservation area as defined in section 3 of P.L. , c. (C.) (now
2 before the Legislature as this bill) shall also be regulated pursuant to
3 sections ¹[31 through 36] 32 through 37¹ of P.L. , c. (C.) (now
4 before the Legislature as this bill).

5
6 ¹[38.] 39.¹ (New section) Notwithstanding the provisions of
7 subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule
8 or regulation adopted pursuant thereto, to the contrary, the
9 Department of Environmental Protection, pursuant to section ¹[33]
10 34¹ of P.L. , c. (C.) (now before the Legislature as this bill),
11 shall establish a permit system to provide for review of allocations or
12 reallocations¹, for other than agricultural or horticultural purposes.¹
13 of waters of the Highlands, as defined in section 3 of P.L. , c.
14 (C.) (now before the Legislature as this bill), to provide for the
15 issuance of permits for diversions either individually or cumulatively
16 of more than 50,000 gallons per day of waters of the Highlands in the
17 Highlands preservation area as defined in section 3 of P.L. , c.
18 (C.) (now before the Legislature as this bill).

19
20 ¹[39.] 40.¹ (New section) Notwithstanding the provisions of the
21 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.)
22 and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et
23 seq.), or any rule or regulation adopted pursuant thereto, to the
24 contrary, the Department of Environmental Protection, pursuant to
25 section ¹[33] 34¹ of P.L. , c. (C.) (now before the Legislature
26 as this bill), shall establish a septic system density standard at a level
27 to prevent the degradation of water quality ¹[.]¹ or to require the
28 restoration of water quality, ¹as required pursuant to the "Water
29 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the
30 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),
31 or any rule or regulation adopted pursuant thereto.¹ and to protect
32 ecological uses from individual, secondary, and cumulative impacts, in
33 consideration of deep aquifer recharge available for dilution, which
34 standard shall be applied to any major ¹Highlands¹ development as
35 defined in section 3 of P.L. , c. (C.) (now before the Legislature
36 as this bill) located ¹[wholly or partially within] in¹ the Highlands
37 preservation area as defined in section 3 of P.L. , c. (C.) (now
38 before the Legislature as this bill).

39
40 ¹[40.] 41.¹ (New section) Notwithstanding the provisions of the
41 "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or
42 any rule or regulation adopted pursuant thereto, to the contrary, the
43 Department of Environmental Protection, pursuant to section ¹[33]
44 34¹ of P.L. , c. (C.) (now before the Legislature as this bill),
45 within the Highlands preservation area as defined in section 3 of

1 P.L. , c. (C.) (now before the Legislature as this bill), shall limit
 2 or prohibit the construction of new public water systems or the
 3 extension of existing public water systems ¹to serve development in
 4 the Highlands preservation area as defined in section 3 of P.L. ,
 5 c. (C.) (now before the Legislature as this bill)¹, except in the case
 6 of a demonstrated need to protect public health and safety¹, and
 7 except to serve development in the Highlands preservation area that
 8 is exempt from the provisions of P.L. , c. (C.) (now before the
 9 Legislature as this bill) pursuant to subsection a. of section 30 of
 10 P.L. , c. (C.) (now before the Legislature as this bill)¹.

11

12 ¹[41.] 42.¹ (New section) Notwithstanding the provisions of the
 13 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.)
 14 and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et
 15 seq.), or any rule or regulation adopted pursuant thereto, to the
 16 contrary, within the Highlands preservation area as defined in section
 17 3 of P.L. , c. (C.) (now before the Legislature as this bill),
 18 designated sewer service areas for which wastewater collection
 19 systems have not been installed on the date of enactment of P.L. ,
 20 c. (C.) (now before the Legislature as this bill) are hereby
 21 revoked, and any associated treatment works approvals in the
 22 impacted areas shall expire on the date of enactment of P.L. , c.
 23 (C.) (now before the Legislature as this bill), ¹[and the] except that
 24 any designated sewer service area shall not be revoked and any
 25 associated treatment works approvals shall not expire if necessary to
 26 serve development in the Highlands preservation area that is exempt
 27 from the provisions of P.L. , c. (C.) (now before the
 28 Legislature as this bill) pursuant to subsection a. of section 30 of
 29 P.L. , c. (C.) (now before the Legislature as this bill). ¹The
 30 Department of Environmental Protection shall implement measures to
 31 amend any water quality management plan as appropriate to reflect the
 32 revocation of designated sewer service areas pursuant to this section.

33

34 ¹[42.] 43.¹ (New section) Notwithstanding the provisions of the
 35 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et
 36 seq.), or any rule or regulation adopted pursuant thereto, to the
 37 contrary, the Department of Environmental Protection, pursuant to
 38 section ¹[33] 34¹ of P.L. , c. (C.) (now before the Legislature
 39 as this bill), shall establish a zero net fill requirement within any flood
 40 hazard area located ¹[wholly or partially within] in¹ the Highlands
 41 preservation area as defined in section 3 of P.L. , c. (C.) (now
 42 before the Legislature as this bill).

43

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

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

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

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

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

$$\begin{array}{rcccl}
 & \text{nonagricultural} & - & \text{agricultural} & - & \text{landowner's} \\
 & \text{developmental value} & & \text{value} & & \text{asking price} \\
 & \text{-----} & & & & \\
 & \text{nonagricultural} & - & \text{agricultural} & & \\
 & \text{development value} & & \text{value} & &
 \end{array}$$

19
 20 (2) The degree to which the purchase would encourage the
 21 survivability of the municipally approved program in productive
 22 agriculture; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(cf: P.L.2001, c.405, s.3)]¹

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

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

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

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

$$\frac{\text{nonagricultural developmental value} - \text{agricultural value}}{\text{landowner's asking price}}$$

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}{\text{value}}$$

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41

42 ¹[44.] 45.¹ Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended
43 to read as follows:

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

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

6 (cf: P.L.1983, c.32, s.29)

7
8 ¹[45. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read
9 as follows:

10 4. The board shall have the following powers:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 c.339:

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

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

18 (cf: P.L.1993, c.339, s.4)]¹

19

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

22 4. The board shall have the following powers:

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

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

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

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

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

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

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

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

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

44
45 ¹[46.] 47.¹ Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is
46 amended to read as follows:

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

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

¹[47.] 48.¹ Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to read as follows:

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

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

¹[48.] 49.¹ Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended to read as follows:

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

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

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

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

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

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

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

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

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

6
7 ¹[49.] 50.¹ Section 18 of P.L.1985, c.432 (C.13:1M-18) is
8 amended to read as follows:

9 18. a. Nothing in this act shall be construed to supersede or
10 prohibit the adoption, by the governing body of any [county or]
11 municipality or county, of any ordinance or resolution regulating or
12 prohibiting the exploration beyond the reconnaissance phase, drilling
13 for and the extraction of oil and natural gas ¹or uranium¹. As used in
14 this section, "reconnaissance" means:

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

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

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

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

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

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

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

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

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

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

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

15
16 ¹[50.] 51.¹ Section 25 of P.L.1999, c.152 (C.13:8C-25) is
17 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

5
6 ¹[51.] 52.¹ Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is
7 amended to read as follows:

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

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

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

30
31 ¹[52.] 53.¹ Section 26 of P.L.1999, c.152 (C.13:8C-26) is
32 amended to read as follows:

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

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

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

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

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

1 and feasible.

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

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

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

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

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

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

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

9 (3) This subsection shall not:

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) This subsection shall not:

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

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

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

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

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

3 j. (1) Commencing on the date of enactment of P.L. , c. (C.)
4 (now before the Legislature as this bill) ¹or July 1, 2004, whichever is
5 later,¹ and ¹[until five years after that date] through June 30, 2009¹,
6 when the department, a local government unit, or a qualifying tax
7 exempt nonprofit organization seeks to acquire lands ¹[in the
8 Highlands preservation area]¹ for recreation and conservation
9 purposes using constitutionally dedicated moneys in whole or in part
10 or Green Acres bond act moneys in whole or in part, it shall conduct
11 or cause to be conducted an appraisal or appraisals of the value of the
12 lands that shall be made using (a) ¹[the rules and regulations adopted
13 by the Department of Environmental Protection pursuant to P.L. , c.
14 (C.) (now before the Legislature as this bill) and the provisions of
15 section 31 of that act applicable to] the land use zoning of the lands,
16 and any State environmental laws or Department of Environmental
17 Protection rules and regulations that may affect the value of¹ the
18 lands¹,¹ subject to the appraisal and in effect at the time of proposed
19 acquisition, and (b) ¹[the rules and regulations adopted by the
20 Department of Environmental Protection pursuant to any
21 environmental land use or water law applicable to] the land use zoning
22 of the lands, and any State environmental laws or Department of
23 Environmental Protection rules and regulations that may affect the
24 value of¹ the lands¹,¹ subject to the appraisal and in effect on ¹[the
25 day before the date of enactment of P.L. , c. (C.) (now before
26 the Legislature as this bill)] January 1, 2004¹. The higher of those
27 two values shall be utilized by the department, a local government
28 unit, or a qualifying tax exempt nonprofit organization as the basis for
29 negotiation with the landowner with respect to the acquisition price
30 for the lands. The landowner shall be provided with both values
31 determined pursuant to this paragraph.

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

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

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

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

4 (4) This subsection shall not:

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

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

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

12 (5) For the purposes of this subsection ¹[:

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

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

26 "Immediate], "immediate¹ family member" means ¹a¹ spouse, child,
 27 ¹parent, ¹sibling, aunt, uncle, niece, nephew, first cousin, grandparent,
 28 grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law,
 29 stepparent, stepchild, stepbrother, stepsister, half brother, or half
 30 sister, whether the individual is related by blood, marriage, or
 31 adoption.

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

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

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

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

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

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

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

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

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

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

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

32
 33 ¹[53.] 54.¹ Section 38 of P.L.1999, c.152 (C.13:8C-38) is
 34 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) This subsection shall not:

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

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

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

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

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

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

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

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

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

28 (3) This subsection shall not:

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

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

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

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

41 j. (1) Commencing on the date of enactment of P.L. , c. (C.)
42 (now before the Legislature as this bill) ¹or July 1, 2004, whichever is
43 later,¹ and ¹[until five years after that date] through June 30, 2009¹,
44 when the committee, a local government unit, or a qualifying tax
45 exempt nonprofit organization seeks to acquire a development
46 easement on farmland or the fee simple title to farmland for farmland

1 preservation purposes ¹[in the Highlands preservation area] ¹using
 2 constitutionally dedicated moneys in whole or in part, it shall conduct
 3 or cause to be conducted an appraisal or appraisals of the value of the
 4 lands that shall be made using (a) ¹[the rules and regulations adopted
 5 by the Department of Environmental Protection pursuant to P.L. ,
 6 c. (C.) (now before the Legislature as this bill) and the provisions
 7 of section 31 of that act applicable to] the land use zoning of the
 8 lands, and any State environmental laws or Department of
 9 Environmental Protection rules and regulations that may affect the
 10 value of¹ the lands¹,¹ subject to the appraisal and in effect at the time
 11 of proposed acquisition, and (b) ¹[the rules and regulations adopted
 12 by the Department of Environmental Protection pursuant to any
 13 environmental land use or water law applicable to] the land use zoning
 14 of the lands, and any State environmental laws or Department of
 15 Environmental Protection rules and regulations that may affect the
 16 value of¹ the lands¹,¹ subject to the appraisal and in effect on ¹[the
 17 day before the date of enactment of P.L. , c. (C.) (now before
 18 the Legislature as this bill)] January 1, 2004¹. The higher of those
 19 two values shall be utilized by the committee, a local government unit,
 20 or a qualifying tax exempt nonprofit organization as the basis for
 21 negotiation with the landowner with respect to the acquisition price
 22 for the lands. The landowner shall be provided with both values
 23 determined pursuant to this paragraph.

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

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

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

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

41 (4) This subsection shall not:

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

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

46 (c)¹ alter any requirements to disclose information to a landowner

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

3 (5) For the purposes of this subsection¹ [:

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

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

17 "Immediate], "immediate¹ family member" means ¹a¹ spouse, child,
 18 ¹parent, ¹sibling, aunt, uncle, niece, nephew, first cousin, grandparent,
 19 grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law,
 20 stepparent, stepchild, stepbrother, stepsister, half brother, or half
 21 sister, whether the individual is related by blood, marriage, or
 22 adoption.

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

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

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

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

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

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

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

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

42

43 ¹[54.] 55.¹ Section 13 of P.L.1974, c.118 (C.13:13A-13) is
 44 amended to read as follows:

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

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

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

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

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

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

1 act.

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

3

4 ¹[55.] 56.¹ Section 14 of P.L.1974, c.118 (C.13:13A-14) is
5 amended to read as follows:

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

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

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

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

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

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

24

25 ¹[56.] 57.¹ Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended
 26 to read as follows:

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

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

43

44 ¹[57.] 58.¹ R.S.32:14-5 is amended to read as follows:

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

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

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

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

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

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

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

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

42

43 ¹[58.] 59.¹ Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended
44 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

19. Preparation; contents; modification.

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

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

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

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

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

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

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

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

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

1 areas and public sites for recreation;

2 (8) A conservation plan element providing for the preservation,
3 conservation, and utilization of natural resources, including, to the
4 extent appropriate, energy, open space, water supply, forests, soil,
5 marshes, wetlands, harbors, rivers and other waters, fisheries,
6 endangered or threatened species wildlife and other resources, and
7 which systemically analyzes the impact of each other component and
8 element of the master plan on the present and future preservation,
9 conservation and utilization of those resources;

10 (9) An economic plan element considering all aspects of economic
11 development and sustained economic vitality, including (a) a
12 comparison of the types of employment expected to be provided by the
13 economic development to be promoted with the characteristics of the
14 labor pool resident in the municipality and nearby areas and (b) an
15 analysis of the stability and diversity of the economic development to
16 be promoted;

17 (10) A historic preservation plan element: (a) indicating the location
18 and significance of historic sites and historic districts; (b) identifying
19 the standards used to assess worthiness for historic site or district
20 identification; and (c) analyzing the impact of each component and
21 element of the master plan on the preservation of historic sites and
22 districts;

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

25 (12) A recycling plan element which incorporates the State
26 Recycling Plan goals, including provisions for the collection,
27 disposition and recycling of recyclable materials designated in the
28 municipal recycling ordinance, and for the collection, disposition and
29 recycling of recyclable materials within any development proposal for
30 the construction of 50 or more units of single-family residential
31 housing or 25 or more units of multi-family residential housing and any
32 commercial or industrial development proposal for the utilization of
33 1,000 square feet or more of land; and

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

43 c. The master plan and its plan elements may be divided into
44 subplans and subplan elements projected according to periods of time
45 or staging sequences.

46 d. The master plan shall include a specific policy statement

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

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

17 (cf: P.L.1999, c.180, s.2)]¹

18
19 ¹[60. R.S.48:3-7 is amended to read as follow:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(cf: P.L.2003, c.169, s.17)]¹

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

19. Preparation; contents; modification.

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

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

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

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

1 population density and development intensity recommended for the
2 municipality;

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

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

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

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

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

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

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

46 (10) A historic preservation plan element: (a) indicating the

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

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

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

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

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

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

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

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

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

5
6 ¹61. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read
7 as follows:

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

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

34 (2) In addition to the amounts credited to the "Shore Protection
35 Fund" pursuant to paragraph (1) of this subsection, amounts equal to
36 \$12,000,000 in each of the first 10 years after the date of enactment
37 of the "Highlands Water Protection and Planning Act," P.L. , c.
38 (C.) (now before the Legislature as this bill) and to \$5,000,000 in
39 each year thereafter, paid during the State fiscal year to the State
40 Treasurer from the payment of fees collected by the county recording
41 officer other than the additional fee of \$0.75 for each \$500.00 of
42 consideration or fractional part thereof recited in the deed in excess of
43 \$150,000.00 shall be credited to the "Highlands Protection Fund"
44 created pursuant to section 21 of P.L. , c. (C.) (now before the
45 Legislature as this bill), in the manner established under that section.
46 No monies shall be credited to the "Highlands Protection Fund"

1 pursuant to this paragraph until and unless the full amount of
2 \$25,000,000 has first been credited to the "Shore Protection Fund"
3 pursuant to paragraph (1) of this subsection.

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

11 (cf: P.L.2003, c.113, s.3)

12
13 ¹62. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to
14 read as follows:

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

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

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

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

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

35 b. If the requirements of subsection a. of this section are not met
36 on the effective date of an annual appropriations act for the State fiscal
37 year, or if an amendment or supplement to an annual appropriations
38 act for the State fiscal year should violate any of the requirements of
39 subsection a. of this section, the Director of the Division of Budget
40 and Accounting in the Department of the Treasury shall, not later than
41 five days after the enactment of the annual appropriations act, or an
42 amendment or supplement thereto, that violates any of the
43 requirements of subsection a. of this section, certify to the Director of
44 the Division of Taxation that the requirements of subsection a. of this
45 section have not been met.¹

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

1 ¹[61.] 63.¹ Section 1 of P.L.1985, c.398 (C.52:18A-196) is
2 amended to read as follows:

3 1. The Legislature finds and declares that:

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

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

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

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

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

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

41 g. An increasing concentration of the poor and minorities in older
42 urban areas jeopardizes the future well-being of this State, and a sound
43 and comprehensive planning process will facilitate the provision of
44 equal social and economic opportunity so that all of New Jersey's
45 citizens can benefit from growth, development and redevelopment;

46 h. An adequate response to judicial mandates respecting housing

1 for low- and moderate-income persons requires sound planning to
2 prevent sprawl and to promote suitable use of land; and

3 i. These purposes can be best achieved through the establishment
4 of a State planning commission consisting of representatives from the
5 executive and legislative branches of State government, local
6 government, the general public and the planning community.

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

8
9 ¹[62.] 64.¹ Section 4 of P.L.1985, c.398 (C.52:18A-199) is
10 amended to read as follows:

11 4. The commission shall:

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

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

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

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

34 e. Periodically review State, regional, and local government
35 planning procedures and relationships and recommend to the Governor
36 and the Legislature administrative or legislative action to promote a
37 more efficient and effective planning process;

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

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

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

1 ¹[63.] 65.¹ Section 5 of P.L.1985, c.398 (C.52:18A-200) is
2 amended to read as follows:

3 5. The State Development and Redevelopment Plan shall be
4 designed to represent a balance of development and conservation
5 objectives best suited to meet the needs of the State. The plan shall:

6 a. Protect the natural resources and qualities of the State,
7 including, but not limited to, agricultural development areas, fresh and
8 saltwater wetlands, flood plains, stream corridors, aquifer recharge
9 areas, steep slopes, areas of unique flora and fauna, and areas with
10 scenic, historic, cultural and recreational values;

11 b. Promote development and redevelopment in a manner consistent
12 with sound planning and where infrastructure can be provided at
13 private expense or with reasonable expenditures of public funds. This
14 should not be construed to give preferential treatment to new
15 construction;

16 c. Consider input from State, regional, county and municipal
17 entities concerning their land use, environmental, capital and economic
18 development plans, including to the extent practicable any State and
19 regional plans concerning natural resources or infrastructure elements;

20 d. Identify areas for growth, limited growth, agriculture, open
21 space conservation and other appropriate designations that the
22 commission may deem necessary;

23 e. Incorporate a reference guide of technical planning standards
24 and guidelines used in the preparation of the plan; and

25 f. Coordinate planning activities and establish Statewide planning
26 objectives in the following areas: land use, housing, economic
27 development, transportation, natural resource conservation,
28 agriculture and farmland retention, recreation, urban and suburban
29 redevelopment, historic preservation, public facilities and services, and
30 intergovernmental coordination.

31 (cf: P.L.1985, c.398, s.5)

32
33 ¹[64.] 66.¹ Section 6 of P.L.1985, c.398 (C.52:18A-201) is
34 amended to read as follows:

35 6. a. There is established in the Department of the Treasury the
36 Office of State Planning. The director of the office shall be appointed
37 by and serve at the pleasure of the Governor. The director shall
38 supervise and direct the activities of the office and shall serve as the
39 secretary and principal executive officer of the State Planning
40 Commission.

41 b. The Office of State Planning shall assist the commission in the
42 performance of its duties and shall:

43 (1) Publish an annual report on the status of the State Development
44 and Redevelopment Plan which shall describe the progress towards
45 achieving the goals of the plan, the degree of consistency achieved
46 among municipal, county, regional, and State plans, the capital needs

1 of the State, and progress towards providing housing where such need
2 is indicated;

3 (2) Provide planning service to other agencies or instrumentalities
4 of State government, review the plans prepared by them, and
5 coordinate planning to avoid or mitigate conflicts between plans;

6 (3) Provide advice and assistance to regional, county and local
7 planning units;

8 (4) Review and comment on the plans of interstate agencies where
9 the plans affect this State;

10 (5) Compile quantitative current estimates and Statewide forecasts
11 for population, employment, housing and land needs for development
12 and redevelopment; and

13 (6) Prepare and submit to the State Planning Commission, as an aid
14 in the preparation of the State Development and Redevelopment Plan,
15 alternate growth and development strategies which are likely to
16 produce favorable economic, environmental and social results.

17 c. The director shall ensure that the responsibilities and duties of
18 the commission are fulfilled, and shall represent the commission and
19 promote its activities before government agencies, public and private
20 interest groups and the general public, and shall undertake or direct
21 such other activities as the commission shall direct or as may be
22 necessary to carry out the purposes of [this act] P.L.1985, c.398
23 (C.52:18A-196 et al.).

24 d. With the consent of the commission, the director shall assign to
25 the commission from the staff of the office at least two full-time
26 planners, a full-time liaison to local and county governments and
27 regional entities, and such other staff, clerical, stenographic and expert
28 assistance as [he] the director shall deem necessary for the fulfillment
29 of the commission's responsibilities and duties.

30 (cf: P.L.1985, c.398, s.6)

31

32 ¹[65.] 67.¹ Section 7 of P.L.1985, c.398 (C.52:18A-202) is
33 amended to read as follows:

34 7. a. In preparing, maintaining and revising the State Development
35 and Redevelopment Plan, the commission shall solicit and give due
36 consideration to the plans, comments and advice of each county and
37 municipality, State agencies designated by the commission, the
38 Highlands Water Protection and Planning Council established pursuant
39 to section 4 of P.L. , c. (C.) (now before the Legislature as this
40 bill), and other local and regional entities. Prior to the adoption of
41 each plan, the commission shall prepare and distribute a preliminary
42 plan to each county planning board, municipal planning board and
43 other requesting parties, including State agencies, the Highlands Water
44 Protection and Planning Council, and metropolitan planning
45 organizations. Not less than 45 nor more than 90 days thereafter, the
46 commission shall conduct a joint public informational meeting with

1 each county planning board in each county and with the Highlands
2 Water Protection and Planning Council for the purpose of providing
3 information on the plan, responding to inquiries concerning the plan,
4 and receiving informal comments and recommendations from county
5 and municipal planning boards, local public officials, the Highlands
6 Water Protection and Planning Council, and other interested parties.

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

32 ¹[Notwithstanding any provision of this section to the contrary, any
33 municipality or county in the Highlands Region, as defined in section
34 3 of P.L. , c. (C.) (now before the Legislature as this bill),
35 whose municipal master plan and development regulations or county
36 master plan and associated regulations, respectively, have been
37 approved by the Highlands Water Protection and Planning Council
38 pursuant to sections 14 or 15 of P.L. , c. (C.) (now before the
39 Legislature as this bill) to be in conformance with the Highlands
40 regional master plan adopted by the council pursuant to section 8 of
41 P.L. , c. (C.) (now before the Legislature as this bill) shall be
42 exempt from the cross-acceptance process required by this subsection
43 for those portions of the municipality or county lying within the
44 Highlands Region.]¹

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

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

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

17 (cf: P.L.1998, c.109, s.1)

18

19 ¹[66.] 68.¹ Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is
 20 amended to read as follows:

21 2. a. The Office of State Planning in consultation with the Office
 22 of Economic Policy, shall utilize the following:

23 (1) Conduct portions of these studies using its own staff;

24 (2) Contract with other State agencies to conduct portions of these
 25 studies; and

26 (3) Contract with an independent firm or an institution of higher
 27 learning to conduct portions of these studies.

28 b. Any portion of the studies conducted by the Office of State
 29 Planning, or any other State agency, shall be subject to review by an
 30 independent firm or an institution of higher learning.

31 c. The Assessment Study and the oversight review shall be
 32 submitted in the form of a written report to the State Planning
 33 Commission for distribution to the Governor, the Legislature,
 34 appropriate regional entities, and the governing bodies of each county
 35 and municipality in the State during the cross-acceptance process and
 36 prior to the adoption of the Final Plan.

37 d. A period extending from at least 45 days prior to the first of six
 38 public hearings, which are required under the State Planning Act,
 39 P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last
 40 public hearing shall be provided for counties and municipalities to
 41 review and respond to the studies. Requests for revisions to the
 42 Interim Plan shall be considered by the State Planning Commission in
 43 the formulation of the Final Plan.

44 (cf: P.L.1989, c.332, s.2)

45

46 ¹[67.] 69.¹ Section 8 of P.L.1985, c.398 (C.52:18A-203) is

1 amended to read as follows:

2 8. ¹a.¹ The commission shall adopt rules and regulations to carry
3 out its purposes, including procedures to facilitate the solicitation and
4 receipt of comments in the preparation of the preliminary and final
5 plan and to ensure a process for comparison of the plan with county
6 and municipal master plans and regional plans, and procedures for
7 coordinating the information collection, storage and retrieval activities
8 of the various State agencies¹, and to establish a process for the
9 endorsement of municipal, county, and regional plans that are
10 consistent with the State Development and Redevelopment Plan.

11 b. Any municipality or county or portion thereof located in the
12 Highlands preservation area as defined in section 3 of P.L. , c.
13 (C.) (now before the Legislature as this bill) shall be exempt from
14 the plan endorsement process established in the rules and regulations
15 adopted pursuant to subsection a. of this section. Upon the State
16 Planning Commission endorsing the regional master plan adopted by
17 the Highlands Water Protection and Planning Council pursuant to
18 section 8 of P.L. , c. (C.) (now before the Legislature as this
19 bill), any municipal master plan and development regulations or county
20 master plan and associated regulations that have been approved by the
21 Highlands Water Protection and Planning Council pursuant to sections
22 14 or 15 of P.L. , c. (C.) (now before the Legislature as this
23 bill) shall be deemed the equivalent of having those plans endorsed by
24 the State Planning Commission¹.

25 (cf: P.L.1985, c.398, s.8)

26

27 ¹[68.] 70.¹ Section 9 of P.L.1985, c.398 (C.52:18A-204) is
28 amended to read as follows:

29 9. The commission shall be entitled to call to its assistance any
30 personnel of any State agency, regional entity, or county, municipality
31 or political subdivision thereof as it may require in order to perform its
32 duties. The officers and personnel of any State agency, regional
33 entity, or county, municipality or political subdivision thereof and any
34 other person may serve at the request of the commission upon any
35 advisory committee as the commission may create without forfeiture
36 of office or employment and with no loss or diminution in the
37 compensation, status, rights and privileges which they otherwise enjoy.
38 (cf: P.L.1985, c.398, s.9)

39

40 ¹[69.] 71.¹ Section 10 of P.L.1985, c.398 (C.52:18A-205) is
41 amended to read as follows:

42 10. Each State agency, regional entity, or county, municipality or
43 political subdivision thereof shall make available to the commission
44 any studies, surveys, plans, data and other materials or information
45 concerning the capital, land use, environmental, transportation,
46 economic development and human services plans and programs of the

1 agency, entity, county, municipality or political subdivision.

2 (cf: P.L.1985, c.398, s.10)

3
4 ¹[70.] 72.¹ Section 11 of P.L.1985, c.398 (C.52:18A-206) is
5 amended to read as follows:

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

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

30 (cf: P.L.1993, c.190, s.19)

31
32 ¹[71.] 73.¹ Section 13 of P.L.1981, c.262 (C.58:1A-13) is
33 amended to read as follows:

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

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

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

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

43 (3) Recommendations for improvements to existing State water
44 supply facilities, the construction of additional State water supply
45 facilities, and for the interconnection or consolidation of existing water
46 supply systems;

1 (4) Recommendations for the diversion or use of fresh surface or
 2 ground waters and saline surface or ground waters for aquaculture
 3 purposes;

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

6 (6) Identification of lands purchased by the State for water supply
 7 facilities that currently are not actively used for water supply purposes,
 8 including, but not limited to, the Six Mile Run Reservoir Site, with
 9 recommendations as to the future use of these lands for water supply
 10 purposes within or outside of the planning horizon for the plan.

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

13 (1) Prepare and make available to all interested persons a copy of
 14 the proposed plan or proposed revisions and updates to the current
 15 plan;

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

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

22 d. Prior to the adoption of any revision to the New Jersey
 23 Statewide Water Supply Plan pursuant to this section, the department
 24 shall consult with the Highlands Water Protection and Planning
 25 Council¹, established pursuant to section 4 of P.L. , c. (C.)
 26 (now before the Legislature as this bill),¹ concerning the possible
 27 effects and impact of the plan upon the Highlands regional master
 28 plan¹, adopted pursuant to section 8 of P.L. , c. (C.) (now
 29 before the Legislature as this bill),¹ and the water and other natural
 30 resources of the Highlands Region¹, as defined in section 3 of P.L. ,
 31 c. (C.) (now before the Legislature as this bill)¹.

32 (cf: P.L.2003, c.251, s.2)

33

34 ¹[72.] 74.¹ Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is
 35 amended to read as follows:

36 10. No action taken by the department pursuant to the provisions
 37 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202
 38 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the
 39 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)
 40 [or], the comprehensive management plan for the pinelands area
 41 adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the
 42 "Highlands Water Protection and Planning Act," P.L. , c. (C.)
 43 (now before the Legislature as this bill), or the Highlands regional
 44 master plan adopted pursuant to section 8 of P.L. , c. (C.) (now
 45 before the Legislature as this bill).

46 (cf: P.L.1993, c.202, s.10)

1 ¹[73.] 75.¹ Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended
2 to read as follows:

3 6. a. The authority is hereby empowered to design, initiate,
4 acquire, construct, maintain, repair and operate projects or cause the
5 same to be operated pursuant to a lease, sublease, or agreement with
6 any person or governmental agency, and to issue bonds of the
7 authority to finance these projects, payable from the revenues and
8 other funds of the authority. All projects undertaken by the authority
9 shall conform to the recommendations of the New Jersey Statewide
10 Water Supply Plan.

11 b. The authority shall be subject to compliance with all State health
12 and environmental protection statutes and regulations and any other
13 statutes and regulations not inconsistent herewith. The authority may,
14 upon the request of a governmental agency, enter into a contract to
15 provide services for any project.

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

19 d. The authority shall consult with the Highlands Water Protection
20 and Planning Council, established pursuant to section 4 of P.L. __,
21 c. (C. __) (now before the Legislature as this bill), from time to time
22 prior to final action on any project or undertaking authorized pursuant
23 to this section in the Highlands Region, as defined in section 3 of
24 P.L. __, c. (C. __) (now before the Legislature as this bill). The
25 provisions of section ¹[17] 16¹ of P.L. __, c. (C. __) (now before the
26 Legislature as this bill) shall apply to the authority.

27 (cf: P.L.1981, c.293, s.6)

28
29 ¹[74.] 76.¹ Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended
30 to read as follows:

31 7. The Lake Hopatcong Commission shall, in conjunction with
32 each Lake Hopatcong municipality, develop a stormwater and
33 nonpoint source pollution management plan for the region. The
34 stormwater management and nonpoint source pollution plan shall be
35 designed to reduce siltation and prevent pollution caused by
36 stormwater runoff or nonpoint sources that would otherwise degrade
37 the water quality of Lake Hopatcong and its tributaries, interfere with
38 water-based recreation, or adversely affect aquatic life. The goals and
39 purposes of the plan shall be to improve the quality of stormwater
40 runoff entering Lake Hopatcong, identify cost effective measures to
41 control stormwater runoff and nonpoint source pollution, and identify
42 funding mechanisms for implementation of such measures. The
43 commission shall consult with the Highlands Water Protection and
44 Planning Council, established pursuant to section 4 of P.L. __, c.
45 (C. __) (now before the Legislature as this bill), in developing the
46 stormwater and nonpoint source pollution management plan pursuant

1 to this section. Any plan developed pursuant to this section that may
2 impact upon or otherwise affect the Highlands preservation area, as
3 defined in section 3 of P.L. , c. (C.) (now before the Legislature
4 as this bill), shall be consistent with the Highlands regional master plan
5 adopted by the council pursuant to section 8 of that act.

6 (cf: P.L.2000, c.175, s.7)

7
8 ¹[75.] 77.¹ Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended
9 to read as follows:

10 9. Each municipality represented on the commission shall provide
11 the commission notice of proposed amendments and revisions to
12 municipal master plans, zoning and other ordinances governing land
13 use and development, and applications for specific development
14 projects, and request that the commission review and evaluate the
15 proposed amendment, revision, or application to assess its potential
16 impact upon Lake Hopatcong and its watershed and provide the
17 commission's recommendations for appropriate action thereon. As
18 part of the commission's review and evaluation, the commission shall
19 consider the consistency of the amendment or revision with the
20 Highlands regional master plan¹, adopted pursuant to section 8 of
21 P.L. , c. (C.) (now before the Legislature as this bill),¹ if it may
22 impact upon or otherwise affect the Highlands preservation area, as
23 defined in section 3 of P.L. , c. (C.) (now before the Legislature
24 as this bill), and shall consult with the Highlands Water Protection and
25 Planning Council, established pursuant to section ¹[4of] 4 of¹ P.L. ,
26 c. (C.) (now before the Legislature as this bill), on any such
27 matter.

28 (cf: P.L.2000, c.175, s.9)

29
30 ¹[76.] 78.¹ R.S.58:5-12 is amended to read as follows:

31 58:5-12. The district water supply commission shall thereupon
32 proceed to formulate plans for obtaining a water supply or a new or
33 additional water supply for **[such]** the municipality and any other
34 municipalities that may desire water from such joint water supply, as
35 provided for herein, and to estimate the cost thereof, the annual cost
36 of operating the same, the probable share of the cost which each of
37 the municipalities will be called upon to pay for its share of water
38 supply and plant used in common with the other municipalities, and the
39 cost of any distribution system, water supply or plant acquired or
40 constructed for its individual use, and shall report **[said]** the plans to
41 the municipalities, together with a form of contract, providing for the
42 raising and payment of the necessary funds to meet the cost of
43 acquisition and operation.

44 If the plans to be formulated pursuant to this section involve
45 obtaining water from the Highlands Region, as defined in section 3 of
46 P.L. , c. (C.) (now before the Legislature as this bill), the

1 district water supply commission shall consult with the Highlands
2 Water Protection and Planning Council established pursuant to section
3 4 of P.L. , c. (C.) (now before the Legislature as this bill) prior
4 to moving forward with any such plans or entering into any such
5 contracts. The provisions of section ¹[17] 16¹ of P.L. , c. (C.)
6 (now before the Legislature as this bill) shall apply to the district water
7 supply commission.

8 (cf: R.S.58:5-12)

9
10 ¹[77.] 79.¹ Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is
11 amended to read as follows:

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

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

22 (2) if the discharge from the proposed groundwater remedial action
23 is located within a wastewater service district or area of a local public
24 entity, a certified statement that a request, dated at least 60 days prior
25 to the filing of the permit application, had been made to the local
26 public entity to discharge the groundwater into the wastewater
27 collection or treatment facilities of that entity, and that no reply has
28 been received from that entity, or a written statement by the local
29 public entity, dated not more than 60 days prior to the filing of the
30 permit application with the department, that the entity has approved
31 or rejected a written request by the applicant to discharge the treated
32 groundwater into the wastewater collection or treatment facilities of
33 that entity. Notwithstanding that a local public entity has approved
34 the request to discharge groundwater into its facilities, the department
35 may approve the applicant's permit to discharge the groundwater to
36 surface water upon a finding that it is in the public interest;

37 (3) a certified statement that a copy of the completed application
38 form along with a consent request, as prescribed in subsection b. of
39 this section, have been filed with the clerk of the municipality in which
40 the site of the proposed groundwater remedial action is located, and
41 setting forth the date of the filing with the host municipality, which
42 filing shall be made prior to, or concurrent with, the filing of the
43 application with the department; [and]

44 (4) within the pinelands area, documentation from the Pinelands
45 Commission that the application is consistent with the requirements of
46 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)

1 or any regulations promulgated pursuant thereto and section 502 of
2 the "National Parks and Recreation Act of 1978" (Pub.L. 95-625); and
3 (5) within the Highlands preservation area, documentation from the
4 Highlands Water Protection and Planning Council that the application
5 is consistent with the requirements of the "Highlands Water Protection
6 and Planning Act," P.L. , c. (C.) (now before the Legislature as
7 this bill), and any rules and regulations and the Highlands regional
8 master plan adopted pursuant thereto.

9 b. The department shall prescribe the form and content of a request
10 for consent filed with a municipality pursuant to paragraph (3) of
11 subsection a. of this section. The municipal consent request shall be
12 limited to an identification of all municipal approvals with which the
13 applicant is required to comply, the status of any applications filed
14 therefor, and whether or not the municipality consents to the
15 application and the specific reasons therefor. The request for consent
16 form shall also advise that documentation and other information
17 relating to the application have been filed and are available for review
18 at the department. A municipality receiving a request for consent form
19 shall have 30 days from the date of receipt of a copy of the application
20 and request for consent form to file with the department the
21 information requested, and its consent of, or objections to, the
22 application. Municipal consent or objection to a groundwater remedial
23 action shall be by resolution of the governing body of the municipality
24 unless the governing body has, by resolution, delegated such authority
25 to a qualified officer or entity thereof, in which case the endorsement
26 shall be signed by the designated officer or official of the entity.
27 Notwithstanding that a municipality objects to a permit application or
28 fails to file a consent or objection to the permit application, the
29 department may approve the applicant's permit application to
30 discharge groundwater to surface water.

31 c. An application pursuant to subsection a. of this section shall be
32 deemed complete, for the purposes of departmental review, within 30
33 days of the filing of the application with the department unless the
34 department notifies the applicant, in writing, prior to expiration of the
35 30 days that the application has failed to satisfy one or more of the
36 items identified in subsection a. of this section. If an application is
37 determined to be complete, the department shall review and take final
38 action on the completed application within 60 days from
39 commencement of the review, or, if the parties mutually agree to a
40 30-day extension, within 90 days therefrom. The review period for a
41 completed application shall commence immediately upon termination
42 of the 30-day period, or upon determination by the department that the
43 application is complete, whichever occurs first. If the department fails
44 to take final action on a permit application for a general permit in the
45 time frames set forth in this subsection, that general permit shall be
46 deemed to have been approved by the department. The department

1 shall review an application for a permit pursuant to subsection a. of
2 this section and shall take action on that application pursuant to the
3 time frames set forth in this subsection, notwithstanding that all of the
4 municipal approvals have not been obtained, unless such approvals
5 would materially affect the terms and conditions of the permit, except
6 that in such instances the department may condition its approval of the
7 application on the necessary municipal approvals being subject to the
8 terms and conditions of the application.

9 d. The department may issue a general permit for the discharge of
10 groundwater to surface water pursuant to a groundwater remedial
11 action of discharged petroleum products as provided in subsection a.
12 of this section.

13 e. (1) The department may not require a municipal consent of a
14 treatment works application for a groundwater remedial action for
15 which a permit application is submitted pursuant to subsection a. of
16 this section.

17 (2) If a completed application for a treatment works approval for
18 a groundwater remedial action is filed with the department at the same
19 time as an application for a general permit therefor, the department
20 shall concurrently review the two applications, except that the review
21 of the application for the treatment works approval for a groundwater
22 remedial action shall not be subject to the time frames set forth in
23 subsection c. of this section.

24 f. The provisions of this section shall apply to applications filed on
25 or after the effective date of this act, except that the Department of
26 Environmental Protection may implement any of the provisions of this
27 section prior to that date.

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

31 h. For purposes of this section:

32 "General permit" means a permit issued by the department for
33 similar discharges.

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

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

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

46 (1) farm underground storage tanks of 1,100 gallons or less

1 capacity used for storing motor fuel for noncommercial purposes;

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

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

7 (cf: P.L.1993, c.351, s.1)

8

9 ¹[78.] 80.¹ Section 24 of P.L.1993, c.139 (C.58:10B-2) is
10 amended to read as follows:

11 24. a. The department shall, pursuant to the "Administrative
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
13 regulations establishing criteria and minimum standards necessary for
14 the submission, evaluation and approval of plans or results of
15 preliminary assessments, site investigations, remedial investigations,
16 and remedial action workplans and for the implementation thereof.
17 The documents for the preliminary assessment, site investigation,
18 remedial investigation, and remedial action workplan required to be
19 submitted for a remediation, shall not be identical to the criteria and
20 standards used for similar documents submitted pursuant to federal
21 law, except as may be required by federal law. In establishing criteria
22 and minimum standards for these terms the department shall strive to
23 be result oriented, provide for flexibility, and to avoid duplicate or
24 unnecessarily costly or time consuming conditions or standards.

25 b. The regulations adopted by the department pursuant to
26 subsection a. of this section shall provide that a person performing a
27 remediation may deviate from the strict adherence to the regulations,
28 in a variance procedure or by another method prescribed by the
29 department, if that person can demonstrate that the deviation and the
30 resulting remediation would be as protective of human health, safety,
31 and the environment, as appropriate, as the department's regulations
32 and that the health risk standards established in subsection d. of
33 section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable
34 environmental standards would be met. Factors to be considered in
35 determining if the deviation should be allowed are whether the
36 alternative method:

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

39 (2) reflects current technology as documented in peer-reviewed
40 professional journals;

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

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

45 The department shall make available to the public, and shall
46 periodically update, a list of alternative remediation methods used

1 successfully or approved by the department as provided in paragraph
2 (1) of this subsection.

3 c. To the extent practicable and in conformance with the standards
4 for remediations as provided in section 35 of P.L.1993, c.139
5 (C.58:10-12), the department shall adopt rules and regulations that
6 allow for certain remedial actions to be undertaken in a manner
7 prescribed by the department without having to obtain prior approval
8 from or submit detailed documentation to the department. A person
9 who performs a remedial action in the manner prescribed in the rules
10 and regulations of the department, and who certifies this fact to the
11 department, shall obtain a no further action letter from the department
12 for that particular remedial action.

13 d. The department shall develop regulatory procedures that
14 encourage the use of innovative technologies in the performance of
15 remedial actions and other remediation activities.

16 e. Notwithstanding any other provisions of this section, all
17 remediation standards and remedial actions that involve real property
18 located in the pinelands area shall be consistent with the provisions of
19 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),
20 any rules and regulations adopted pursuant thereto, and with section
21 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C.
22 s.471i.

23 f. Notwithstanding any other provisions of this section, all
24 remediation standards and remedial actions that involve real property
25 located in the Highlands preservation area shall be consistent with the
26 provisions of the "Highlands Water Protection and Planning Act,"
27 P.L. , c. (C.) (now before the Legislature as this bill), and any
28 rules and regulations and the Highlands regional master plan adopted
29 pursuant thereto.

30 (cf: P.L.1997, c.278, s.10)

31

32 ¹[79.] 81.¹ Section 35 of P.L.1993, c.139 (C.58:10B-12) is
33 amended to read as follows:

34 35. a. The Department of Environmental Protection shall adopt
35 minimum remediation standards for soil, groundwater, and surface
36 water quality necessary for the remediation of contamination of real
37 property. The remediation standards shall be developed to ensure that
38 the potential for harm to public health and safety and to the
39 environment is minimized to acceptable levels, taking into
40 consideration the location, the surroundings, the intended use of the
41 property, the potential exposure to the discharge, and the surrounding
42 ambient conditions, whether naturally occurring or man-made.

43 Until the minimum remediation standards for the protection of
44 public health and safety as described herein are adopted, the
45 department shall apply public health and safety remediation standards
46 for contamination at a site on a case-by-case basis based upon the

1 considerations and criteria enumerated in this section.

2 The department shall not propose or adopt remediation standards
3 protective of the environment pursuant to this section, except
4 standards for groundwater or surface water, until recommendations
5 are made by the Environment Advisory Task Force created pursuant
6 to section 37 of P.L.1993, c.139. Until the Environment Advisory
7 Task Force issues its recommendations and the department adopts
8 remediation standards protective of the environment as required by
9 this section, the department shall continue to determine the need for
10 and the application of remediation standards protective of the
11 environment on a case-by-case basis in accordance with the guidance
12 and regulations of the United States Environmental Protection Agency
13 pursuant to the "Comprehensive Environmental Response,
14 Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq.
15 and other statutory authorities as applicable.

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

20 b. In developing minimum remediation standards the department
21 shall:

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

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

28 (3) avoid the use of redundant conservative assumptions. The
29 department shall avoid the use of redundant conservative assumptions
30 by the use of parameters that provide an adequate margin of safety and
31 which avoid the use of unrealistic conservative exposure parameters
32 and which guidelines make use of the guidance and regulations for
33 exposure assessment developed by the United States Environmental
34 Protection Agency pursuant to the "Comprehensive Environmental
35 Response, Compensation, and Liability Act of 1980," 42 U.S.C.
36 s.9601 et seq. and other statutory authorities as applicable;

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

40 (5) consider and utilize, in the absence of other standards used or
41 developed by the Department of Environmental Protection and the
42 United States Environmental Protection Agency, the toxicity factors,
43 slope factors for carcinogens and reference doses for non-carcinogens
44 from the United States Environmental Protection Agency's Integrated
45 Risk Information System (IRIS).

46 c. (1) The department shall develop residential and nonresidential

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

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

29 d. The department shall develop minimum remediation standards
30 for soil, groundwater, and surface water intended to be protective of
31 public health and safety taking into account the provisions of this
32 section. In developing these minimum health risk remediation
33 standards the department shall identify the hazards posed by a
34 contaminant to determine whether exposure to that contaminant can
35 cause an increase in the incidence of an adverse health effect and
36 whether the adverse health effect may occur in humans. The
37 department shall set minimum soil remediation health risk standards
38 for both residential and nonresidential uses that:

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

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

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

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

23 f. (1) A person performing a remediation of contaminated real
24 property, in lieu of using the established minimum soil remediation
25 standard for either residential use or nonresidential use adopted by the
26 department pursuant to subsection c. of this section, may submit to the
27 department a request to use an alternative residential use or
28 nonresidential use soil remediation standard. The use of an alternative
29 soil remediation standard shall be based upon site specific factors
30 which may include (1) physical site characteristics which may vary
31 from those used by the department in the development of the soil
32 remediation standards adopted pursuant to this section; or (2) a site
33 specific risk assessment. If a person performing a remediation
34 requests to use an alternative soil remediation standard based upon a
35 site specific risk assessment, that person shall demonstrate to the
36 department that the requested deviation from the risk assessment
37 protocol used by the department in the development of soil
38 remediation standards pursuant to this section is consistent with the
39 guidance and regulations for exposure assessment developed by the
40 United States Environmental Protection Agency pursuant to the
41 "Comprehensive Environmental Response, Compensation, and
42 Liability Act of 1980," 42 U.S.C. 9601 et seq. and other statutory
43 authorities as applicable. A site specific risk assessment may consider
44 exposure scenarios and assumptions that take into account the form of
45 the contaminant present, natural biodegradation, fate and transport of
46 the contaminant, available toxicological data that are based upon

1 generally accepted and peer reviewed scientific evidence or
2 methodologies , and physical characteristics of the site, including, but
3 not limited to, climatic conditions and topographic conditions.
4 Nothing in this subsection shall be construed to authorize the use of
5 an alternative soil remediation standard in those instances where an
6 engineering control is the appropriate remedial action, as determined
7 by the department, to prevent exposure to contamination.

8 Upon a determination by the department that the requested
9 alternative remediation standard satisfies the department's regulations,
10 is protective of public health and safety, as established in subsection
11 d. of this section, and is protective of the environment pursuant to
12 subsection a. of this section, the alternative residential use or
13 nonresidential use soil remediation standard shall be approved by the
14 department. The burden to demonstrate that the requested alternative
15 remediation standard is protective rests with the person requesting the
16 alternative standard and the department may require the submission of
17 any documentation as the department determines to be necessary in
18 order for the person to meet that burden.

19 (2) The department may, upon its own initiative, require an
20 alternative remediation standard for a particular contaminant for a
21 specific real property site, in lieu of using the established minimum
22 residential use or nonresidential use soil remediation standard adopted
23 by the department for a particular contaminant pursuant to this
24 section. The department may require an alternative remediation
25 standard pursuant to this paragraph upon a determination by the
26 department, based on the weight of the scientific evidence, that due to
27 specific physical site characteristics of the subject real property,
28 including, but not limited to, its proximity to surface water, the use of
29 the adopted residential use or nonresidential use soil remediation
30 standards would not be protective , or would be unnecessarily
31 overprotective, of public health or safety or of the environment, as
32 appropriate.

33 g. The development, selection, and implementation of any
34 remediation standard or remedial action shall ensure that it is
35 protective of public health, safety, and the environment, as applicable,
36 as provided in this section. In determining the appropriate remediation
37 standard or remedial action that shall occur at a site, the department
38 and any person performing the remediation, shall base the decision on
39 the following factors:

40 (1) Unrestricted use remedial actions, limited restricted use
41 remedial actions and restricted use remedial actions shall be allowed
42 except that unrestricted use remedial actions and limited restricted use
43 remedial actions shall be preferred over restricted use remedial actions.
44 The department, however, may not disapprove the use of a restricted
45 use remedial action or a limited restricted use remedial action so long
46 as the selected remedial action meets the health risk standard

1 established in subsection d. of this section, and where, as applicable,
2 is protective of the environment. The choice of the remedial action to
3 be implemented shall be made by the person performing the
4 remediation in accordance with regulations adopted by the department
5 and that choice of the remedial action shall be approved by the
6 department if all the criteria for remedial action selection enumerated
7 in this section , as applicable, are met. The department may not
8 require a person to compare or investigate any alternative remedial
9 action as part of its review of the selected remedial action;

10 (2) Contamination may, upon the department's approval, be left
11 onsite at levels or concentrations that exceed the minimum soil
12 remediation standards for residential use if the implementation of
13 institutional or engineering controls at that site will result in the
14 protection of public health, safety and the environment at the health
15 risk standard established in subsection d. of this section and if the
16 requirements established in subsections a., b., c. and d. of section 36
17 of P.L.1993, c.139 (C.58:10B-13) are met;

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

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

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

44 (6) Groundwater that is contaminated shall not be required to be
45 remediated to a level or concentration for any particular contaminant
46 lower than the level or concentration that is migrating onto the

1 property from another property owned and operated by another
2 person;

3 (7) The technical performance, effectiveness and reliability of the
4 proposed remedial action in attaining and maintaining compliance with
5 applicable remediation standards and required health risk standards
6 shall be considered. In reviewing a proposed remedial action, the
7 department shall also consider the ability of the owner or operator to
8 implement the proposed remedial action within a reasonable time
9 frame without jeopardizing public health, safety or the environment;

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

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

20 The burden to demonstrate that a remedial action is protective of
21 public health, safety and the environment, as applicable, and has been
22 selected in conformance with the provisions of this subsection is with
23 the person proposing the remedial action.

24 The department may require the person performing the remediation
25 to supply the information required pursuant to this subsection as is
26 necessary for the department to make a determination.

27 h. (1) The department shall adopt regulations which establish a
28 procedure for a person to demonstrate that a particular parcel of land
29 contains large quantities of historical fill material. Upon a
30 determination by the department that large quantities of historic fill
31 material exist on that parcel of land, there is a rebuttable presumption
32 that the department shall not require any person to remove or treat the
33 fill material in order to comply with applicable health risk or
34 environmental standards. In these areas the department shall establish
35 by regulation the requirement for engineering or institutional controls
36 that are designed to prevent exposure of these contaminants to
37 humans, that allow for the continued use of the property, that are less
38 costly than removal or treatment, which maintain the health risk
39 standards as established in subsection d. of this section, and, as
40 applicable, are protective of the environment. The department may
41 rebut the presumption only upon a finding by the preponderance of the
42 evidence that the use of engineering or institutional controls would not
43 be effective in protecting public health, safety, and the environment.
44 The department may not adopt any rule or regulation that has the
45 effect of shifting the burden of rebutting the presumption. For the
46 purposes of this paragraph "historic fill material" means generally large

1 volumes of non-indigenous material, no matter what date they were
2 emplaced on the site, used to raise the topographic elevation of a site,
3 which were contaminated prior to emplacement and are in no way
4 connected with the operations at the location of emplacement and
5 which include, but are not limited to, construction debris, dredge
6 spoils, incinerator residue, demolition debris, fly ash, and
7 non-hazardous solid waste. Historic fill material shall not include any
8 material which is substantially chromate chemical production waste or
9 any other chemical production waste or waste from processing of
10 metal or mineral ores, residues, slags or tailings.

11 (2) The department shall develop recommendations for remedial
12 actions in large areas of historic industrial contamination. These
13 recommendations shall be designed to meet the health risk standards
14 established in subsection d. of this section, and to be protective of the
15 environment and shall take into account the industrial history of these
16 sites, the extent of the contamination that may exist, the costs of
17 remedial actions, the economic impacts of these policies, and the
18 anticipated uses of these properties. The department shall issue a
19 report to the Senate Environment Committee and to the Assembly
20 Agriculture and Waste Management Committee, or their successors,
21 explaining these recommendations and making any recommendations
22 for legislative or regulatory action.

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

29 i. The department may not require a remedial action workplan to
30 be prepared or implemented or engineering or institutional controls to
31 be imposed upon any real property unless sampling performed at that
32 real property demonstrates the existence of contamination above the
33 applicable remediation standards.

34 j. Upon the approval by the department of a remedial action
35 workplan, or similar plan that describes the extent of contamination at
36 a site and the remedial action to be implemented to address that
37 contamination, the department may not subsequently require a change
38 to that workplan or similar plan in order to compel a different
39 remediation standard due to the fact that the established remediation
40 standards have changed; however, the department may compel a
41 different remediation standard if the difference between the new
42 remediation standard and the remediation standard approved in the
43 workplan or other plan differs by an order of magnitude. The
44 limitation to the department's authority to change a workplan or
45 similar plan pursuant to this subsection shall only apply if the workplan
46 or similar plan is being implemented in a reasonable timeframe, as may

1 be indicated in the approved remedial action workplan or similar plan.

2 k. Notwithstanding any other provisions of this section, all
3 remediation standards and remedial actions that involve real property
4 located in the Pinelands area shall be consistent with the provisions of
5 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),
6 any rules and regulations promulgated pursuant thereto, and with
7 section 502 of the "National Parks and Recreation Act of 1978," 16
8 U.S.C. s.471i; and all remediation standards and remedial actions that
9 involve real property located in the Highlands preservation area shall
10 be consistent with the provisions of the "Highlands Water Protection
11 and Planning Act," P.L. , c. (C.) (now before the Legislature as
12 this bill), and any rules and regulations and the Highland regional
13 master plan adopted pursuant thereto.

14 l. Upon the adoption of a remediation standard for a particular
15 contaminant in soil, groundwater, or surface water pursuant to this
16 section, the department may amend that remediation standard only
17 upon a finding that a new standard is necessary to maintain the health
18 risk standards established in subsection d. of section 35 of P.L.1993,
19 c.139 (C.58:10B-12) or to protect the environment, as applicable. The
20 department may not amend a public health based soil remediation
21 standard to a level that would result in a health risk standard more
22 protective than that provided for in subsection d. of section 35 of
23 P.L.1993, c.139 (C.58:10B-12).

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

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

35 o. A person who has remediated a site pursuant to the provisions
36 of this section, who was liable for the cleanup and removal costs of
37 that discharge pursuant to the provisions of paragraph (1) of
38 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and
39 who remains liable for the discharge on that site due to a possibility
40 that a remediation standard may change, undiscovered contamination
41 may be found, or because an engineering control was used to
42 remediate the discharge, shall maintain with the department a current
43 address at which that person may be contacted in the event additional
44 remediation needs to be performed at the site. The requirement to
45 maintain the current address shall be made part of the conditions of the
46 no further action letter issued by the department.

1 (cf: P.L.1997, c.278, s.17)

2 ¹[80.] 82.¹ Section 1 of P.L.1999, c.225 (C.58:29-8) is amended
3 to read as follows:

4 1. ¹[a.]¹ There shall be appropriated each State fiscal year from
5 the ¹[General Fund] "Highlands Protection Fund" created pursuant to
6 section 19 of P.L. , c. (C.) (now before the Legislature as this
7 bill)¹ to each municipality within which any lands subject to the
8 moratorium on the conveyance of watershed lands imposed pursuant
9 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,
10 c.19, ¹[or subject to the prohibition on the sale or conveyance of
11 certain public water supply lands prescribed pursuant to section 27 of
12 P.L. , c. (C.) (now before the Legislature as this bill).]¹ are
13 located an amount of ~~[\$68.50]~~ ¹[~~\$35~~ \$47]¹ per acre of such lands
14 located within the municipality. Notwithstanding the provisions of this
15 section to the contrary, the per acre amount of watershed moratorium
16 ¹[or water supply protection]¹ offset aid prescribed by this section
17 shall be adjusted annually in direct proportion to the increase or
18 decrease in the Consumer Price Index for all urban consumers in the
19 New York City area as reported by the United States Department of
20 Labor. The adjustment shall become effective on July 1 of the year in
21 which the adjustment is made.

22 ¹[b. Notwithstanding the provisions of subsection a. of this section
23 to the contrary, payments shall no longer be made pursuant thereto on
24 the basis of the location within a municipality of lands subject to the
25 moratorium on the conveyance of watershed lands imposed pursuant
26 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,
27 c.19, if (1) those sections are repealed by law, or (2) the watershed
28 land conveyance moratorium imposed pursuant to those sections is
29 terminated by a final, unappealed order of a court of competent
30 jurisdiction, whichever is sooner.]¹

31 (cf: P.L.1999, c.225, s.1)

32

33 ¹[81. Section 3 of P.L.1999, c.225 is amended to read as follows:

34 3. This act shall take effect July 1, 1999 [and shall expire (1) on
35 the repeal by law of section 1 of P.L.1988, c.163 and section 1 of
36 P.L.1990, c.19, or (2) upon termination of the watershed land
37 conveyance moratorium imposed pursuant to section 1 of P.L.1988,
38 c.163 and section 1 of P.L.1990, c.19, by a final, unappealed order of
39 a court of competent jurisdiction, whichever is sooner].

40 (cf: P.L.1999, c.225, s.3)]¹

41

42 ¹[82.] 83.¹ This act shall take effect immediately.

1 _____
2
3 The "Highlands Water Protection and Planning Act"; creates
4 Highlands Water Protection and Planning Council; and dedicates a
5 portion of realty transfer fee revenue annually for certain State aid
6 purposes in the Highlands Region and the pinelands area.