

SENATE, No. 532

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

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District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

3

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

6

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

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

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

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

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

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

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

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

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

 Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) A resource assessment which:

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

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

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

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

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

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

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

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

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

22 (a) prepare a land use capability map;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Notwithstanding any provision of this section to the contrary,
2 nothing in the regional master plan shall be deemed to supersede the
3 right and authority of a municipality or a county to exercise
4 planning or zoning authority in connection with property located
5 within a commercial corridor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44

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

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

- 1 Department of Environmental Protection pursuant to **【this act】**
2 P.L.2004, c.120 (C.13:20-1 et al.) , or any amendments to a master
3 plan, development regulations, or other regulations adopted by a
4 local government unit to specifically conform them with the
5 regional master plan:
- 6 (1) the construction of a single family dwelling, for an
7 individual's own use or the use of an immediate family member, on
8 a lot owned by the individual on the date of enactment of **【this act】**
9 P.L.2004, c.120 (C.13:20-1 et al.) or on a lot for which the
10 individual has on or before May 17, 2004 entered into a binding
11 contract of sale to purchase that lot;
- 12 (2) the construction of a single family dwelling on a lot in
13 existence on the date of enactment of **【this act】** P.L.2004, c.120
14 (C.13:20-1 et al.) , provided that the construction does not result in
15 the ultimate disturbance of one acre or more of land or a cumulative
16 increase in impervious surface by one-quarter acre or more;
- 17 (3) a major Highlands development that received on or before
18 March 29, 2004:
- 19 (a) one of the following approvals pursuant to the "Municipal
20 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):
- 21 (i) preliminary or final site plan approval;
- 22 (ii) final municipal building or construction permit;
- 23 (iii) minor subdivision approval where no subsequent site plan
24 approval is required;
- 25 (iv) final subdivision approval where no subsequent site plan
26 approval is required; or
- 27 (v) preliminary subdivision approval where no subsequent site
28 plan approval is required; and
- 29 (b) at least one of the following permits from the Department of
30 Environmental Protection, if applicable to the proposed major
31 Highlands development:
- 32 (i) a permit or certification pursuant to the "Water Supply
33 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);
- 34 (ii) a water extension permit or other approval or authorization
35 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224
36 (C.58:12A-1 et seq.);
- 37 (iii) a certification or other approval or authorization issued
38 pursuant to the "The Realty Improvement Sewerage and Facilities
39 Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or
- 40 (iv) a treatment works approval pursuant to the "Water Pollution
41 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or
- 42 (c) one of the following permits from the Department of
43 Environmental Protection, if applicable to the proposed major
44 Highlands development, and if the proposed major Highlands
45 development does not require one of the permits listed in
46 subsubparagraphs (i) through (iv) of subparagraph (b) of this
47 paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8
9 7. This act shall take effect immediately.

10
11
12 STATEMENT

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

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

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

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

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

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