

ASSEMBLY, No. 1440

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/5/2020)

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

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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

- 1 i. The appraisals conducted pursuant to this section or the fair
2 market value of land restricted to agricultural use shall not be used
3 to increase the assessment and taxation of agricultural land pursuant
4 to the "Farmland Assessment Act of 1964," P.L.1964, c.48
5 (C.54:4-23.1 et seq.).
- 6 j. (1) In determining the suitability of land for development
7 easement purchase, the board and the committee may also include
8 as additional factors for consideration the presence of a historic
9 building or structure on the land and the willingness of the
10 landowner to preserve that building or structure, but only if the
11 committee first adopts, pursuant to the "Administrative Procedure
12 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
13 implementing this subsection. The committee may, by rule or
14 regulation adopted pursuant to the "Administrative Procedure Act,"
15 assign any such weight it deems appropriate to be given to these
16 factors.
- 17 (2) The provisions of paragraph (1) of this subsection may also
18 be applied in determining the suitability of land for fee simple
19 purchase for farmland preservation purposes as authorized by
20 P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1983, c.32
21 (C.4:1C-11 et seq.), and P.L.1999, c.152 (C.13:8C-1 et seq.).
- 22 (3) (a) For the purposes of paragraph (1) of this subsection:
23 "historic building or structure" means the same as that term is
24 defined pursuant to subsection c. of section 2 of P.L.2001, c.405
25 (C.13:8C-40.2).
- 26 (b) For the purposes of paragraph (2) of this subsection,
27 "historic building or structure" means the same as that term is
28 defined pursuant to subsection c. of section 1 of P.L.2001, c.405
29 (C.13:8C-40.1).
- 30 (cf: P.L.2004, c.120, s.44)
- 31
- 32 2. Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended to read
33 as follows:
- 34 29. Nothing herein contained shall be construed to prohibit the
35 creation of a municipally approved program or other farmland
36 preservation program, the purchase of development easements, or
37 the extension of any other benefit herein provided on land, and to
38 owners thereof, in the Pinelands area, as defined pursuant to section
39 3 of P.L.1979, c.111 (C.13:18A-3) **】, or in the Highlands Region, as**
40 **defined in section 3 of P.L.2004, c.120 (C.13:20-3)】.**
- 41 (cf: P.L.2004, c.120, s.45)
- 42
- 43 3. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read
44 as follows:
- 45 4. The board shall have the following powers:
- 46 a. To purchase, or to provide matching funds for the purchase
47 of 80% of, the value of development potential and to otherwise
48 facilitate development transfers, from the owner of record of the

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

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

29 c. To adopt and use an official seal and alter that seal at its
30 pleasure;

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

34 e. To enter into any agreement or contract, execute any legal
35 document, and perform any act or thing necessary, convenient, or
36 desirable for the purposes of the board or to carry out any power
37 expressly given in this act;

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

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

45 h. To retain such staff as may be necessary in the career service
46 and to appoint an executive director thereof. The executive director
47 shall serve as a member of the senior executive or unclassified

- 1 service and may be appointed without regard to the provisions of
2 Title 11A of the New Jersey Statutes;
- 3 i. To review and analyze innovative techniques that may be
4 employed to maximize the total acreage reserved through the use of
5 perpetual easements;
- 6 j. To provide, through the State TDR Bank, a financial
7 guarantee with respect to any loan to be extended to any person that
8 is secured using development potential as collateral for the loan.
9 Financial guarantees provided under this act shall be in accordance
10 with procedures, terms and conditions, and requirements, including
11 rights and obligations of the parties in the event of default on any
12 loan secured in whole or in part using development potential as
13 collateral, to be established by rule or regulation adopted by the
14 board pursuant to the "Administrative Procedure Act";
- 15 k. To enter into agreement with the State Agriculture
16 Development Committee for the purpose of acquiring development
17 potential through the acquisition of development easements on
18 farmland so that the board may utilize the existing processes,
19 procedures, and capabilities of the State Agriculture Development
20 Committee as necessary and appropriate to accomplish the goals
21 and objectives of the board as provided for pursuant to this act;
- 22 l. To enter into agreements with other State agencies or entities
23 providing services and programs authorized by law so that the board
24 may utilize the existing processes, procedures, and capabilities of
25 those other agencies or entities as necessary and appropriate to
26 accomplish the goals and objectives of the board as provided for
27 pursuant to this act;
- 28 m. To provide planning assistance grants to municipalities for
29 up to 50% of the cost of preparing, for development potential
30 transfer purposes, a utility service plan element or a development
31 transfer plan element of a master plan pursuant to section 19 of
32 P.L.1975, c.291 (C.40:55D-28), a real estate market analysis
33 required pursuant to section 12 of P.L.2004, c.2 (C.40:55D-148),
34 and a capital improvement program pursuant to section 20 of
35 P.L.1975, c.291 (C.40:55D-29) and incurred by a municipality, or
36 \$40,000, whichever is less, which grants shall be made utilizing
37 moneys deposited into the bank pursuant to section 8 of P.L.1993,
38 c.339 , as amended by section 31 of P.L.2004, c.2;
- 39 n. To provide funding in the form of grants or loans for the
40 purchase of development potential to development transfer banks
41 established by a municipality or county pursuant to P.L.1989, c.86
42 (C.40:55D-113 et seq.) or section 22 of P.L.2004, c.2
43 (C.40:55D-158);
- 44 o. To serve as a development transfer bank designated by the
45 governing body of a municipality or county pursuant to section 22
46 of P.L.2004, c.2 (C.40:55D-158);
- 47 p. **【**To provide funding to (1) any development transfer bank
48 that may be established by the Highlands Water Protection and

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

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

19

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

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

30 (cf: P.L.2004, c.120, s.47)

31

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

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

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

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

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

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

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

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

1 alter the ecological and environmental value of the lands being
2 exchanged, if:

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

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

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

21 d For the purposes of this section, "local unit" means a
22 municipality, county, or other political subdivision of the State, or
23 any agency thereof authorized to administer, protect, develop and
24 maintain lands for recreation and conservation purposes.
25 (cf: P.L.2004, c.120, s.49)

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

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

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

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

41 (3) Surface geologic, topographic or other mapping and property
42 surveying; or

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

46 b. A municipality or county shall submit a copy of any
47 ordinance or regulation specifically pertaining to activities

1 regulated by this act, or a rule or regulation promulgated pursuant to
2 this act, to the department.

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

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

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

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

38

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

41 25. Within one year after the date of enactment of this act, and
42 biennially thereafter until and including 2008, the Garden State
43 Preservation Trust, after consultation with the Department of
44 Environmental Protection, the State Agriculture Development
45 Committee, the New Jersey Historic Trust, the Pinelands
46 Commission, **【**the Highlands Water Protection and Planning
47 Council,**】** and the Office of State Planning in the Department of

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

- 1 f. List any surplus real property owned by the State or an
2 independent authority of the State that may be utilizable for
3 recreation and conservation purposes or farmland preservation
4 purposes, and indicate what action has been or must be taken to
5 effect a conveyance of those lands to the department, the
6 committee, local government units, qualifying tax exempt nonprofit
7 organizations, or other entities or persons so that the lands may be
8 preserved and used for those purposes;
- 9 g. List, for the reporting period, all projects for which
10 applications for funding under the Green Acres, farmland
11 preservation, and historic preservation programs were received but
12 not funded with constitutionally dedicated moneys during the
13 reporting period, and the reason or reasons why those projects were
14 not funded;
- 15 h. Provide, for the reporting period, a comparison of the
16 amount of constitutionally dedicated moneys annually appropriated
17 for local government unit projects for recreation and conservation
18 purposes in municipalities eligible to receive State aid pursuant to
19 P.L.1978, c.14 (C.52:27D-178 et seq.) to the average amount of
20 Green Acres bond act moneys annually appropriated for such
21 projects in the years 1984 through 1998; and
- 22 i. Tabulate, both for the reporting period and cumulatively, the
23 total acreage for the entire State, and the acreage in each county and
24 municipality, of lands acquired for recreation and conservation
25 purposes that protect water resources and that protect flood-prone
26 areas.
27 (cf: P.L.2004, c.120, s.51)
28
- 29 9. Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is amended to
30 read as follows:
31 5. a. Within one year after the date of enactment of P.L.2002,
32 c.76 (C.13:8C-25.1 et al.), and annually thereafter, the Department of
33 Environmental Protection, in consultation with the Office of State
34 Planning in the Department of Community Affairs **[,] and** the
35 Pinelands Commission, **[and** the Highlands Water Protection and
36 Planning Council,**]** shall prepare and submit to the Governor and the
37 Legislature an Open Space Master Plan, which shall indicate those
38 areas of the State where the acquisition and development of lands by
39 the State for recreation and conservation purposes is planned or is
40 most likely to occur, and those areas of the State where there is a need
41 to protect water resources, including the identification of lands where
42 protection is needed to assure adequate quality and quantity of
43 drinking water supplies in times of drought, and which shall provide a
44 proposed schedule and expenditure plan for those acquisitions and
45 developments for the next reporting period, which shall include an
46 explanation of how those acquisitions and developments will be
47 distributed throughout all geographic regions of the State to the
48 maximum extent practicable and feasible.

- 1 b. The department shall provide any information the Garden
2 State Preservation Trust deems necessary in preparing its biennial
3 report pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).
4 (cf: P.L.2004, c.120, s.52)
5
- 6 10. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to
7 read as follows:
8 26. a. Moneys appropriated from the Garden State Green Acres
9 Preservation Trust Fund to the Department of Environmental
10 Protection shall be used by the department to:
11 (1) Pay the cost of acquisition and development of lands by the
12 State for recreation and conservation purposes;
13 (2) Provide grants and loans to assist local government units to
14 pay the cost of acquisition and development of lands for recreation
15 and conservation purposes; and
16 (3) Provide grants to assist qualifying tax exempt nonprofit
17 organizations to pay the cost of acquisition and development of
18 lands for recreation and conservation purposes.
19 b. The expenditure and allocation of constitutionally dedicated
20 moneys for recreation and conservation purposes shall reflect the
21 geographic diversity of the State to the maximum extent practicable
22 and feasible.
23 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,
24 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted
25 pursuant thereto, to the contrary, the value of a pinelands
26 development credit, allocated to a parcel pursuant to P.L.1979,
27 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
28 management plan adopted pursuant thereto, shall be made utilizing
29 a value to be determined by either appraisal, regional averaging
30 based upon appraisal data, or a formula supported by appraisal data.
31 The appraisal and appraisal data shall consider as appropriate: land
32 values in the pinelands regional growth areas; land values in
33 counties, municipalities, and other areas reasonably contiguous to,
34 but outside of, the pinelands area; and other relevant factors as may
35 be necessary to maintain the environmental, ecological, and
36 agricultural qualities of the pinelands area.
37 (2) No pinelands development credit allocated to a parcel of
38 land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the
39 pinelands comprehensive management plan adopted pursuant
40 thereto that is acquired or obtained in connection with the
41 acquisition of the parcel for recreation and conservation purposes
42 by the State, a local government unit, or a qualifying tax exempt
43 nonprofit organization using constitutionally dedicated moneys in
44 whole or in part may be conveyed in any manner. All such
45 pinelands development credits shall be retired permanently.
46 d. (Deleted by amendment, P.L.2010, c.70)
47 e. Moneys appropriated from the fund may be used to match
48 grants, contributions, donations, or reimbursements from federal aid

1 programs or from other public or private sources established for the
2 same or similar purposes as the fund.

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

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

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

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

35 j. [(1) Commencing on the date of enactment of P.L.2004,
36 c.120 (C.13:20-1 et al.) and through June 30, 2019 for lands located
37 in the Highlands Region as defined pursuant to section 3 of
38 P.L.2004, c.120 (C.13:20-3), when the department, a local
39 government unit, or a qualifying tax exempt nonprofit organization
40 seeks to acquire lands for recreation and conservation purposes
41 using constitutionally dedicated moneys in whole or in part or
42 Green Acres bond act moneys in whole or in part, it shall conduct
43 or cause to be conducted an appraisal or appraisals of the value of
44 the lands that shall be made using (a) the land use zoning of the
45 lands, and any State environmental laws or Department of
46 Environmental Protection rules and regulations that may affect the
47 value of the lands, subject to the appraisal and in effect at the time
48 of proposed acquisition, and (b) the land use zoning of the lands,

1 and any State environmental laws or Department of Environmental
2 Protection rules and regulations that may affect the value of the
3 lands, subject to the appraisal and in effect on January 1, 2004. The
4 higher of those two values shall be utilized by the department, a
5 local government unit, or a qualifying tax exempt nonprofit
6 organization as the basis for negotiation with the landowner with
7 respect to the acquisition price for the lands. The landowner shall
8 be provided with both values determined pursuant to this paragraph.

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

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

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

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

22 (4) This subsection shall not:

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

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

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

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

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

1 l. In making decisions concerning the acquisition of lands by
2 the State for recreation and conservation purposes using moneys
3 from the Garden State Green Acres Preservation Trust Fund, in the
4 evaluation and priority ranking process the department shall accord
5 three times the weight to acquisitions of lands that would protect
6 water resources, and two times the weight to acquisitions of lands
7 that would protect flood-prone areas, as those criteria are compared
8 to the other criteria in the priority ranking process.

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

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

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

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

1 notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.)
2 or any other law to the contrary.

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

20 o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-
21 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,
22 the 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
26 less, and may be greater if additional sums become available, than
27 the average annual sum spent by the department therefor in each
28 such county, respectively, for State fiscal years 2002 through 2004,
29 provided there is sufficient and appropriate lands within the county
30 to be so acquired by the State for such purposes.
31 (cf: P.L.2015, c.5, s.1)

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

35 38. a. All acquisitions or grants made pursuant to section 37 of
36 P.L.1999, c.152 (C.13:8C-37) shall be made with respect to
37 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
41 geographic diversity of the State to the maximum extent practicable
42 and feasible.

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

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

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

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

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

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

32 (4) considering the importance of preserving agricultural lands
33 in the pinelands area; and

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

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

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

45 h. Any farmland for which a development easement or fee
46 simple title has been acquired pursuant to section 37 of P.L.1999,
47 c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the
48 "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. (Deleted by amendment, P.L.2010, c.70)

4 j. **[(1)** Commencing on the date of enactment of P.L.2004,
5 c.120 (C.13:20-1 et al.) and through June 30, 2019 for lands located
6 in the Highlands Region as defined pursuant to section 3 of
7 P.L.2004, c.120 (C.13:20-3), when the committee, a local
8 government unit, or a qualifying tax exempt nonprofit organization
9 seeks to acquire a development easement on farmland or the fee
10 simple title to farmland for farmland preservation purposes using
11 constitutionally dedicated moneys in whole or in part or Green
12 Acres bond act moneys in whole or in part, it shall conduct or cause
13 to be conducted an appraisal or appraisals of the value of the lands
14 that shall be made using (a) the land use zoning of the lands, and
15 any State environmental laws or Department of Environmental
16 Protection rules and regulations that may affect the value of the
17 lands, subject to the appraisal and in effect at the time of proposed
18 acquisition, and (b) the land use zoning of the lands, and any State
19 environmental laws or Department of Environmental Protection
20 rules and regulations that may affect the value of the lands, subject
21 to the appraisal and in effect on January 1, 2004. The higher of
22 those two values shall be utilized by the committee, a local
23 government unit, or a qualifying tax exempt nonprofit organization
24 as the basis for negotiation with the landowner with respect to the
25 acquisition price for the lands. The landowner shall be provided
26 with both values determined pursuant to this paragraph.

27 A landowner may waive any of the requirements of this
28 paragraph and may agree to sell the lands for less than the values
29 determined pursuant to this paragraph.

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

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

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

40 (4) This subsection shall not:

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

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

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

47 (5) For the purposes of this subsection, "immediate family
48 member" means a spouse, child, parent, sibling, aunt, uncle, niece,

1 nephew, first cousin, grandparent, grandchild, father-in-law,
2 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,
3 stepbrother, stepsister, half brother, or half sister, whether the
4 individual is related by blood, marriage, or adoption.】 (Deleted by
5 amendment, P.L. , c.) (pending before the Legislature as this
6 bill)

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

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

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

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

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

1 development regulations in accordance with section 13 of P.L.2004,
2 c.120 (C.13:20-13) to establish one or more receiving zones for the
3 transfer of development potential from the Highlands preservation
4 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than
5 that which is accorded to comparable applications submitted by
6 other local government units to preserve farmland in municipalities
7 in the Highlands planning area that have not made such
8 amendments to their development regulations.】 (Deleted by
9 amendment, P.L. , c.) (pending before the Legislature as this
10 bill)

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

23 (cf: P.L.2015, c.5, s.2)

24

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

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

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

1 made available to the public upon request and on the Internet
2 website maintained by the State Agriculture Development
3 Committee.

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

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

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

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

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

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

4 e. **【**The commission shall consult with the Highlands Water
5 Protection and Planning Council, established pursuant to section 4
6 of P.L.2004, c.120 (C.13:20-4), on any provision of the park master
7 plan that may impact upon or otherwise affect the Highlands Region
8 or the Highlands regional master plan, as defined in section 3 of
9 P.L.2004, c.120 (C.13:20-3), and any such provision shall be
10 consistent with the Highlands regional master plan adopted by the
11 council pursuant to that act.**】** (Deleted by amendment, P.L. , c.)
12 (pending before the Legislature as this bill)
13 (cf: P.L.2004, c.120, s.55)
14

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

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

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

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

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

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

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

1 P.L.1974, c.118 (C.13:13A-1 et seq.) and any rules and regulations
2 adopted pursuant thereto.
3 (cf: P.L.2007, c.142, s.2)
4

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

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

25 b. Monies deposited in the " **【Highlands】** Watershed Protection
26 Fund" shall be used only for:

27 (1) **【payments to the "Highlands Municipal Property Tax**
28 **Stabilization Fund" established pursuant to subsection b. of section**
29 **19 of this act in such amounts as are necessary to provide property**
30 **tax stabilization aid pursuant to that section】** (Deleted by
31 amendment, P.L. , c.) (pending before the Legislature as this
32 bill) ;

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

35 (3) **【the making of grants by the Highlands Water Protection**
36 **and Planning Council pursuant to sections 13 and 18 of this act】**
37 (Deleted by amendment, P.L. , c.) (pending before the
38 Legislature as this bill) ; and

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

42 (cf: P.L.2004, c.120, s.21)
43

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

46 2. Any billboard or outdoor advertising sign licensed and
47 permitted pursuant to the "Roadside Sign Control and Outdoor

1 Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed
2 to be erected on or above any State right-of-way or any real
3 property of the department shall be subject to local government
4 zoning ordinances, applicable local government building permit
5 requirements, and in the pinelands area, shall be subject to the
6 provisions of the comprehensive management plan prepared and
7 adopted by the Pinelands Commission pursuant to section 7 of
8 P.L.1979, c.111 (C.13:18A-8) **】, and in the Highlands Region, shall**
9 **be subject to the provisions of the "Highland Water Protection and**
10 **Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), any rules and**
11 **regulations adopted pursuant thereto, and the Highlands regional**
12 **master plan adopted by the Highlands Water Protection and**
13 **Planning Council pursuant to section 8 of that act**】** .**
14 (cf: P.L.2004, c.120, s.57)
15

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

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

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

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

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

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

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

15

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

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

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

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

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

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

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

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

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

3 b. **【**The commission shall consult with the Highlands Water
4 Protection and Planning Council, established pursuant to section 4
5 of P.L.2004, c.120 (C.13:20-4), in carrying out its duties as
6 prescribed pursuant to subsection a. of this section. Any action
7 taken by the commission that may impact upon or otherwise affect
8 the Highlands preservation area, as defined in section 3 of
9 P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands
10 regional master plan adopted by the council pursuant to section 8 of
11 that act.**】** (Deleted by amendment, P.L. , c.) (pending before the
12 Legislature as this bill)
13 (cf: P.L.2004, c.120, s.59)
14

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

17 19. Preparation; contents; modification.

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

22 b. The master plan shall generally comprise a report or
23 statement and land use and development proposals, with maps,
24 diagrams and text, presenting, at least the following elements (1)
25 and (2) and, where appropriate, the following elements (3) through
26 (16):

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

30 (2) A land use plan element

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

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

44 (c) showing the existing and proposed location of any airports
45 and the boundaries of any airport safety zones delineated pursuant
46 to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-
47 80 et al.);

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

3 (e) showing the existing and proposed location of military
4 facilities and incorporating strategies to minimize undue
5 encroachment upon, and conflicts with, military facilities, including
6 but not limited to: limiting heights of buildings and structures
7 nearby flight paths or sight lines of aircraft; buffering residential
8 areas from noise associated with a military facility; and allowing for
9 the potential expansion of military facilities;

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

14 (4) A circulation plan element showing the location and types of
15 facilities for all modes of transportation required for the efficient
16 movement of people and goods into, about, and through the
17 municipality, taking into account the functional highway
18 classification system of the Federal Highway Administration and
19 the types, locations, conditions and availability of existing and
20 proposed transportation facilities, including air, water, road and rail;

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

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

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

39 (8) A conservation plan element providing for the preservation,
40 conservation, and utilization of natural resources, including, to the
41 extent appropriate, energy, open space, water supply, forests, soil,
42 marshes, wetlands, harbors, rivers and other waters, fisheries,
43 endangered or threatened species wildlife and other resources, and
44 which systemically analyzes the impact of each other component
45 and element of the master plan on the present and future
46 preservation, conservation and utilization of those resources;

47 (9) An economic plan element considering all aspects of
48 economic development and sustained economic vitality, including

1 (a) a comparison of the types of employment expected to be
2 provided by the economic development to be promoted with the
3 characteristics of the labor pool resident in the municipality and
4 nearby areas and (b) an analysis of the stability and diversity of the
5 economic development to be promoted;

6 (10) An historic preservation plan element: (a) indicating the
7 location and significance of historic sites and historic districts; (b)
8 identifying the standards used to assess worthiness for historic site
9 or district identification; and (c) analyzing the impact of each
10 component and element of the master plan on the preservation of
11 historic sites and districts;

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

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

23 (13) A farmland preservation plan element, which shall include:
24 an inventory of farm properties and a map illustrating significant
25 areas of agricultural land; a statement showing that municipal
26 ordinances support and promote agriculture as a business; and a
27 plan for preserving as much farmland as possible in the short term
28 by leveraging moneys made available by P.L.1999, c.152 (C.13:8C-
29 1 et al.) through a variety of mechanisms including, but not limited
30 to, utilizing option agreements, installment purchases, and
31 encouraging donations of permanent development easements;

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

36 (15) An educational facilities plan element which incorporates
37 the purposes and goals of the "long-range facilities plan" required to
38 be submitted to the Commissioner of Education by a school district
39 pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4);

40 (16) A green buildings and environmental sustainability plan
41 element, which shall provide for, encourage, and promote the
42 efficient use of natural resources and the installation and usage of
43 renewable energy systems; consider the impact of buildings on the
44 local, regional and global environment; allow ecosystems to
45 function naturally; conserve and reuse water; treat storm water on-
46 site; and optimize climatic conditions through site orientation and
47 design.

1 c. The master plan and its plan elements may be divided into
2 subplans and subplan elements projected according to periods of
3 time or staging sequences.

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

15 **【In the case of a municipality situated within the Highlands**
16 **Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the**
17 **master plan shall include a specific policy statement indicating the**
18 **relationship of the proposed development of the municipality, as**
19 **developed in the master plan, to the Highlands regional master plan**
20 **adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).】**
21 (cf: P.L.2016, c.21, s.4)
22

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

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

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

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

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

41 (2) In addition to the amounts credited to the "Shore Protection
42 Fund" pursuant to paragraph (1) of this subsection, amounts equal
43 to \$12,000,000 in each of the first 10 years after **【the date of**
44 **enactment of the "Highlands Water Protection and Planning**
45 **Act,"P.L.2004, c.120 (C.13:20-1 et al.)】** August 10, 2004 and to
46 \$5,000,000 in each year thereafter, paid during the State fiscal year
47 to the State Treasurer from the payment of **【fees collected by the**

1 county recording officer other than the additional fee of \$0.75 for
2 each \$500.00 of consideration or fractional part thereof recited in
3 the deed in excess of \$150,000.00 **the State portion of the basic fee**
4 shall be credited to the "**Highlands** Watershed Protection Fund"
5 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in
6 the manner established under that section. No monies shall be
7 credited to the " **Highlands** Watershed Protection Fund" pursuant
8 to this paragraph until and unless the full amount of \$25,000,000
9 has first been credited to the "Shore Protection Fund" pursuant to
10 paragraph (1) of this subsection.

11 d. All amounts paid to the State Treasurer from the payment of
12 the additional fee shall be credited to the Neighborhood
13 Preservation Nonlapsing Revolving Fund established pursuant to
14 P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established
15 under section 20 thereof (C.52:27D-320).
16 (cf: P.L.2004, c.120, s.61)
17

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

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

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

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

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

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

42 b. If the requirements of subsection a. of this section are not met
43 on the effective date of an annual appropriations act for the State
44 fiscal year, or if an amendment or supplement to an annual
45 appropriations act for the State fiscal year should violate any of the
46 requirements of subsection a. of this section, the Director of the
47 Division of Budget and Accounting in the Department of the

1 Treasury shall, not later than five days after the enactment of the
2 annual appropriations act, or an amendment or supplement thereto,
3 that violates any of the requirements of subsection a. of this section,
4 certify to the Director of the Division of Taxation that the
5 requirements of subsection a. of this section have not been met.
6 (cf: P.L.2004, c.120, s.62)

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

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

30 b. The commission shall negotiate plan cross-acceptance with
31 each county planning board, which shall solicit and receive any
32 findings, recommendations and objections concerning the plan from
33 local planning bodies. Each county planning board shall negotiate
34 plan cross-acceptance among the local planning bodies within the
35 county, unless it shall notify the commission in writing within 45
36 days of the receipt of the preliminary plan that it waives this
37 responsibility, in which case the commission shall designate an
38 appropriate entity, or itself, to assume this responsibility. Each
39 board or designated entity shall, within ten months of receipt of the
40 preliminary plan, file with the commission a formal report of
41 findings, recommendations and objections concerning the plan,
42 including a description of the degree of consistency and any
43 remaining inconsistency between the preliminary plan and county
44 and municipal plans. In any event, should any municipality's plan
45 remain inconsistent with the State Development and Redevelopment
46 Plan after the completion of the cross-acceptance process, the
47 municipality may file its own report with the State Planning

1 Commission, notwithstanding the fact that the county planning
2 board has filed its report with the State Planning Commission. The
3 term cross-acceptance means a process of comparison of planning
4 policies among governmental levels with the purpose of attaining
5 compatibility between local, county, regional, and State plans. The
6 process is designed to result in a written statement specifying areas
7 of agreement or disagreement and areas requiring modification by
8 parties to the cross-acceptance.

9 c. Upon consideration of the formal reports of the county
10 planning boards, the commission shall prepare and distribute a final
11 plan to county and municipal planning boards, [the Highlands
12 Water Protection and Planning Council,] and other interested
13 parties. The commission shall conduct not less than six public
14 hearings in different locations throughout the State for the purpose
15 of receiving comments on the final plan. The commission shall give
16 at least 30 days' public notice of each hearing in advertisements in
17 at least two newspapers which circulate in the area served by the
18 hearing and at least 30 days' notice to the governing body and
19 planning board of each county and municipality in the area served
20 by the hearing [and to the Highlands Water Protection and Planning
21 Council for any area in the Highlands Region served by the
22 hearing] .

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

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

29
30 23. Section 8 of P.L.1985, c.398 (C.52:18A-203) is amended to
31 read as follows:

32 8. a. The commission shall adopt rules and regulations to carry
33 out its purposes, including procedures to facilitate the solicitation
34 and receipt of comments in the preparation of the preliminary and
35 final plan and to ensure a process for comparison of the plan with
36 county and municipal master plans and regional plans, and
37 procedures for coordinating the information collection, storage and
38 retrieval activities of the various State agencies, and to establish a
39 process for the endorsement of municipal, county, and regional
40 plans that are consistent with the State Development and
41 Redevelopment Plan.

42 b. [Any municipality or county or portion thereof located in the
43 Highlands preservation area as defined in section 3 of P.L.2004,
44 c.120 (C.13:20-3) shall be exempt from the plan endorsement
45 process established in the rules and regulations adopted pursuant to
46 subsection a. of this section. Upon the State Planning Commission
47 endorsing the regional master plan adopted by the Highlands Water

1 Protection and Planning Council pursuant to section 8 of P.L.2004,
2 c.120 (C.13:20-8), any municipal master plan and development
3 regulations or county master plan and associated regulations that
4 have been approved by the Highlands Water Protection and
5 Planning Council pursuant to section 14 or 15 of P.L.2004, c.120
6 (C.13:20-14 or C.13:20-15) shall be deemed the equivalent of
7 having those plans endorsed by the State Planning Commission.】
8 (Deleted by amendment, P.L. , c.) (pending before the
9 Legislature as this bill)
10 (cf: P.L.2004, c.120, s.69)
11

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

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

28 b. The State Planning Commission may adopt, after the
29 enactment date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal
30 planning policies of the rules and regulations adopted pursuant to
31 P.L.1973, c.185 (C.13:19-1 et seq.), the coastal planning policies of
32 the rules and regulations adopted pursuant to subsection b. of
33 section 17 of P.L.1973, c.185 (C.13:19-17) and any coastal
34 planning policies of rules and regulations adopted pursuant to
35 P.L.1973, c.185 (C.13:19-1 et seq.) thereafter as the State
36 Development and Redevelopment Plan for the coastal area as
37 defined in section 4 of P.L.1973, c.185 (C.13:19-4).
38 (cf: P.L.2004, c.120, s.72)
39

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

42 3. The Smart Growth Ombudsman shall:

43 a. in conjunction with the Directors of the Divisions of Smart
44 Growth established pursuant to sections 5, 7 and 9 of P.L.2004, c.89
45 (C.13:1D-145, C.27:1E-2 and C.52:27D-10.6), review all relevant
46 permit programs and requirements and make recommendations to
47 the Governor and the departments regarding integration of multiple
48 review and approval processes and recommendations on those

- 1 permits for which approval may be expedited in smart growth areas
2 through mechanisms such as permits-by-rule, general permits or
3 qualification of professionals;
- 4 b. maintain and operate an informational website which shall
5 enable any person to gain access to information regarding the
6 statutory obligations and authority of the Smart Growth
7 Ombudsman, including those services which the ombudsman may
8 provide to State permit applicants to facilitate or expedite permit
9 approval and issuance;
- 10 c. at the request of an applicant, participate in the permit
11 application and review process to ensure compliance with the time
12 frames set forth in subsection c. of section 5, subsection c. of
13 section 7 or subsection c. of section 9, or subsections c. and d. of
14 section 10, as the case may be, of P.L.2004, c.89 (C.13:1D-145,
15 C.27:1E-2, C.52:27D-10.6 or C.13:1D-146);
- 16 d. review any new rules or regulations proposed by any State
17 agency and determine whether the proposed rules or regulations, as
18 they pertain to the smart growth areas, are consistent with the State
19 Development and Redevelopment Plan. In the event that the Smart
20 Growth Ombudsman determines that the proposed rules or
21 regulations in the smart growth areas are not consistent with the
22 State Development and Redevelopment Plan, the Smart Growth
23 Ombudsman shall return the proposed rules or regulations to the
24 State agency with recommended amendments necessary to make the
25 proposed rules or regulations consistent with the State Development
26 and Redevelopment Plan. A State agency shall not file proposed
27 new rules or regulations for publication in the New Jersey Register
28 unless and until the Smart Growth Ombudsman determines the
29 proposed rules or regulations in the smart growth areas are
30 consistent with the State Development and Redevelopment Plan.
31 The requirements of this section may be waived upon a written
32 determination by the Chief Counsel to the Governor that the
33 proposed rules or regulations are required to implement a federal or
34 State mandate; and
- 35 e. one year after the date of enactment of this act and annually
36 thereafter, prepare a report which shall be transmitted to the
37 Governor and the Legislature summarizing the activities of the
38 ombudsman, including, but not limited to, a description of the
39 permits, permit mechanisms, and permit processes that have been
40 streamlined, a list of permit applications in which the ombudsman
41 has participated, any rules or regulations that have been reviewed
42 and the consistency determinations made by the ombudsman, and a
43 report concerning the programs established for the registration and
44 qualification of professionals by the Director of the Division of
45 Smart Growth in the Department of Environmental Protection, the
46 Department of Transportation, and the Department of Community
47 Affairs.

1 As used in this section, "State agency" shall not include the
2 Pinelands Commission established pursuant to P.L.1979, c.111
3 (C.13:18A-1 et seq.), [the Highlands Water Protection and Planning
4 Council established pursuant to P.L.2004, c.89 (C.52:27D-
5 10.2 et al),] or the New Jersey Meadowlands Commission
6 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), or any
7 independent authority or commission.
8 (cf: P.L.2004, c.89, s.3)

9
10 26. Section 20 of P.L.2004, c.120 (C.54:1-84) is amended to
11 read as follows:

12 20. a. The "Pinelands Property Tax Assistance Fund" is
13 established in the General Fund as a special nonlapsing fund for the
14 purpose of providing State aid to qualifying municipalities in the
15 pinelands area. The Commissioner of Community Affairs shall
16 serve as administrator of the fund.

17 b. Every qualifying municipality in the pinelands area shall be
18 eligible for State aid made with monies in the fund. The
19 Commissioner of Community Affairs shall annually distribute to
20 each qualifying municipality in the pinelands area a percentage of
21 the monies annually allocated to the fund equal to the percentage
22 the qualifying municipality received of the total sum distributed
23 from the "Pinelands Municipal Property Tax Stabilization Fund"
24 pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).

25 c. The State Treasurer shall annually credit, in each of the first
26 five years after the date of enactment of P.L.2004, c.120 (C.13:20-
27 1 et al.), to the "Pinelands Property Tax Assistance Fund" from the
28 " [Highlands] Watershed Protection Fund" established pursuant to
29 section 21 of P.L.2004, c.120 (C.13:20-19), the sum of \$1,800,000.

30 d. Any State aid made available with monies from the
31 "Pinelands Property Tax Assistance Fund" pursuant to this section
32 shall be in addition to any other moneys appropriated or otherwise
33 made available pursuant to any other federal or State program for
34 the same category of aid.

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

39 f. The Director of the Division of Local Government Services in
40 the Department of Community Affairs shall make such changes in
41 the budget of any qualifying municipality to ensure that all sums
42 received pursuant to this section are utilized as a direct offset to the
43 amount to be raised by taxation and shall make such changes
44 therein as the director deems necessary to ensure that the offset
45 occurs.

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

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

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

10 j. As used in this section:

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

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

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

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

21

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

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

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

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

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

34 (3) Recommendations for improvements to existing State water
35 supply facilities, the construction of additional State water supply
36 facilities, and for the interconnection or consolidation of existing
37 water supply systems, both interstate and intrastate;

38 (4) Recommendations for the diversion or use of fresh surface or
39 ground waters and saline surface or ground waters for aquaculture
40 purposes;

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

43 (6) Identification of lands purchased by the State for water
44 supply facilities that currently are not actively used for water supply
45 purposes, including, but not limited to, the Six Mile Run Reservoir
46 Site, with recommendations as to the future use of these lands for
47 water supply purposes within or outside of the planning horizon for
48 the plan; and

1 (7) Recommendations for administrative actions to ensure the
2 protection of ground and surface water quality and water supply
3 sources.

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

6 (1) Prepare and make available to all interested persons a copy
7 of the proposed plan or proposed revisions and updates to the
8 current plan;

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

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

15 d. **【**Prior to the adoption of any revision to the New Jersey
16 Statewide Water Supply Plan pursuant to this section, the
17 department shall consult with the Highlands Water Protection and
18 Planning Council, established pursuant to section 4 of P.L.2004,
19 c.120 (C.13:20-4), concerning the possible effects and impact of the
20 plan upon the Highlands regional master plan, adopted pursuant to
21 section 8 of P.L.2004, c.120 (C.13:20-8), and the water and other
22 natural resources of the Highlands Region, as defined in section 3
23 of P.L.2004, c.120 (C.13:20-3).**】** (Deleted by amendment,
24 P.L. , c.) (pending before the Legislature as this bill)
25 (cf: P.L.2005, c.285, s.1)
26

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

29 10. No action taken by the department pursuant to the provisions
30 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202
31 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the
32 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)
33 **【,** or the comprehensive management plan for the pinelands area
34 adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8) **【,**
35 the "Highlands Water Protection and Planning Act," P.L.2004, c.120
36 (C.13:20-1 et al.), or the Highlands regional master plan adopted
37 pursuant to section 8 of P.L.2004, c.120 (C.13:20-8)**】**.
38 (cf: P.L.2004, c.120, s.74)
39

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

42 6. a. The authority is hereby empowered to design, initiate,
43 acquire, construct, maintain, repair and operate projects or cause the
44 same to be operated pursuant to a lease, sublease, or agreement with
45 any person or governmental agency, and to issue bonds of the
46 authority to finance these projects, payable from the revenues and
47 other funds of the authority. All projects undertaken by the

1 authority shall conform to the recommendations of the New Jersey
2 Statewide Water Supply Plan.

3 b. The authority shall be subject to compliance with all State
4 health and environmental protection statutes and regulations and
5 any other statutes and regulations not inconsistent herewith. The
6 authority may, upon the request of a governmental agency, enter
7 into a contract to provide services for any project.

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

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

20 (cf: P.L.2004, c.120, s.75)

21

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

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

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

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

3 9. Each municipality represented on the commission shall
4 provide the commission notice of proposed amendments and
5 revisions to municipal master plans, zoning and other ordinances
6 governing land use and development, and applications for specific
7 development projects, and request that the commission review and
8 evaluate the proposed amendment, revision, or application to assess
9 its potential impact upon Lake Hopatcong and its watershed and
10 provide the commission's recommendations for appropriate action
11 thereon. **【As part of the commission's review and evaluation, the**
12 **commission shall consider the consistency of the amendment or**
13 **revision with the Highlands regional master plan, adopted pursuant**
14 **to section 8 of P.L.2004, c.120 (C.13:20-8), if it may impact upon**
15 **or otherwise affect the Highlands preservation area, as defined in**
16 **section 3 of P.L.2004, c.120 (C.13:20-3), and shall consult with the**
17 **Highlands Water Protection and Planning Council, established**
18 **pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), on any such**
19 **matter.】**

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

21

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

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

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

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

46

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

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

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

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

27 (3) a certified statement that a copy of the completed application
28 form along with a consent request, as prescribed in subsection b. of
29 this section, have been filed with the clerk of the municipality in
30 which the site of the proposed groundwater remedial action is
31 located, and setting forth the date of the filing with the host
32 municipality, which filing shall be made prior to, or concurrent
33 with, the filing of the application with the department; and

34 (4) within the pinelands area, documentation from the Pinelands
35 Commission that the application is consistent with the requirements
36 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et
37 seq.) or any regulations promulgated pursuant thereto and section
38 502 of the "National Parks and Recreation Act of 1978"
39 (Pub.L. 95-625); and

40 (5) **【within the Highlands preservation area, documentation from**
41 **the Highlands Water Protection and Planning Council that the**
42 **application is consistent with the requirements of the "Highlands**
43 **Water Protection and Planning Act,"P.L.2004, c.120 (C.13:20-1 et**
44 **al.), and any rules and regulations and the Highlands regional**
45 **master plan adopted pursuant thereto】** (Deleted by amendment,
46 P.L. , c.) (pending before the Legislature as this bill) .

47 b. The department shall prescribe the form and content of a
48 request for consent filed with a municipality pursuant to paragraph

1 (3) of subsection a. of this section. The municipal consent request
2 shall be limited to an identification of all municipal approvals with
3 which the applicant is required to comply, the status of any
4 applications filed therefor, and whether or not the municipality
5 consents to the application and the specific reasons therefor. The
6 request for consent form shall also advise that documentation and
7 other information relating to the application have been filed and are
8 available for review at the department. A municipality receiving a
9 request for consent form shall have 30 days from the date of receipt
10 of a copy of the application and request for consent form to file
11 with the department the information requested, and its consent of,
12 or objections to, the application. Municipal consent or objection to
13 a groundwater remedial action shall be by resolution of the
14 governing body of the municipality unless the governing body has,
15 by resolution, delegated such authority to a qualified officer or
16 entity thereof, in which case the endorsement shall be signed by the
17 designated officer or official of the entity. Notwithstanding that a
18 municipality objects to a permit application or fails to file a consent
19 or objection to the permit application, the department may approve
20 the applicant's permit application to discharge groundwater to
21 surface water.

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

47 d. The department may issue a general permit for the discharge
48 of groundwater to surface water pursuant to a groundwater remedial

1 action of discharged petroleum products as provided in subsection
2 a. of this section.

3 e. (1) The department may not require a municipal consent of a
4 treatment works application for a groundwater remedial action for
5 which a permit application is submitted pursuant to subsection a. of
6 this section.

7 (2) If a completed application for a treatment works approval for
8 a groundwater remedial action is filed with the department at the
9 same time as an application for a general permit therefor, the
10 department shall concurrently review the two applications, except
11 that the review of the application for the treatment works approval
12 for a groundwater remedial action shall not be subject to the time
13 frames set forth in subsection c. of this section.

14 f. The provisions of this section shall apply to applications filed
15 on or after the effective date of this act, except that the Department
16 of Environmental Protection may implement any of the provisions
17 of this section prior to that date.

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

21 h. For purposes of this section:

22 "General permit" means a permit issued by the department for
23 similar discharges.

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

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

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

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

39 (2) underground storage tanks used to store heating oil for
40 on-site consumption in a nonresidential building with a capacity of
41 2,000 gallons or less; and

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

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

45

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

1 24. a. The department shall, pursuant to the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules
3 and regulations establishing criteria and standards necessary for the
4 submission, evaluation and approval of plans or results of
5 preliminary assessments, site investigations, remedial
6 investigations, and remedial action workplans and for the
7 implementation thereof. The documents for the preliminary
8 assessment, site investigation, remedial investigation, and remedial
9 action workplan required to be submitted for a remediation, shall
10 not be identical to the criteria and standards used for similar
11 documents submitted pursuant to federal law, except as may be
12 required by federal law. In establishing criteria and standards for
13 these terms the department shall strive to be result oriented, provide
14 for flexibility, and to avoid duplicate or unnecessarily costly or time
15 consuming conditions or standards.

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

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

30 (2) reflects current technology as documented in peer-reviewed
31 professional journals;

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

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

36 c. To the extent practicable and in conformance with the
37 standards for remediations as provided in section 35 of P.L.1993,
38 c.139 (C.58:10-12), the department shall adopt rules and regulations
39 that allow for certain remedial actions to be undertaken in a manner
40 prescribed by the department without having to obtain prior
41 approval from or submit detailed documentation to the department.
42 A person who performs a remedial action in the manner prescribed
43 in the rules and regulations of the department, and who certifies this
44 fact to the department, shall obtain a final remediation document for
45 that particular remedial action.

46 d. The department shall develop regulatory procedures that
47 encourage the use of innovative technologies in the performance of
48 remedial actions and other remediation activities.

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

8 f. [Notwithstanding any other provisions of this section, all
9 remediation standards and remedial actions that involve real
10 property located in the Highlands preservation area shall be
11 consistent with the provisions of the "Highlands Water Protection
12 and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules
13 and regulations and the Highlands regional master plan adopted
14 pursuant thereto.] (Deleted by amendment, P.L. , c.) (pending
15 before the Legislature as this bill)
16 (cf: P.L.2009, c.60, s.41)

17
18 35. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to
19 read as follows:

20 35. a. The Department of Environmental Protection shall adopt
21 minimum remediation standards for soil, groundwater, and surface
22 water quality necessary for the remediation of contamination of real
23 property. The remediation standards shall be developed to ensure
24 that the potential for harm to public health and safety and to the
25 environment is minimized to acceptable levels, taking into
26 consideration the location, the surroundings, the intended use of the
27 property, the potential exposure to the discharge, and the
28 surrounding ambient conditions, whether naturally occurring or
29 man-made.

30 Until the minimum remediation standards for the protection of
31 public health and safety as described herein are adopted, the
32 department shall apply public health and safety remediation
33 standards for contamination at a site on a case-by-case basis based
34 upon the considerations and criteria enumerated in this section.

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

39 b. In developing minimum remediation standards the
40 department shall:

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

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

47 (3) avoid the use of redundant conservative assumptions. The
48 department shall avoid the use of redundant conservative

1 assumptions by the use of parameters that provide an adequate
2 margin of safety and which avoid the use of unrealistic conservative
3 exposure parameters and which guidelines make use of the guidance
4 and regulations for exposure assessment developed by the United
5 States Environmental Protection Agency pursuant to the
6 "Comprehensive Environmental Response, Compensation, and
7 Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory
8 authorities as applicable;

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

12 (5) consider and utilize, in the absence of other standards used
13 or developed by the Department of Environmental Protection and
14 the United States Environmental Protection Agency, the toxicity
15 factors, slope factors for carcinogens and reference doses for non-
16 carcinogens from the United States Environmental Protection
17 Agency's Integrated Risk Information System (IRIS).

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

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

1 d. The department shall develop minimum remediation
2 standards for soil, groundwater, and surface water intended to be
3 protective of public health and safety taking into account the
4 provisions of this section. In developing these minimum health risk
5 remediation standards the department shall identify the hazards
6 posed by a contaminant to determine whether exposure to that
7 contaminant can cause an increase in the incidence of an adverse
8 health effect and whether the adverse health effect may occur in
9 humans. The department shall set minimum soil remediation health
10 risk standards for both residential and nonresidential uses that:

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

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

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

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

41 f. (1) A person performing a remediation of contaminated real
42 property, in lieu of using the established minimum soil remediation
43 standard for either residential use or nonresidential use adopted by
44 the department pursuant to subsection c. of this section, may submit
45 to the department a request to use an alternative residential use or
46 nonresidential use soil remediation standard. The use of an
47 alternative soil remediation standard shall be based upon site
48 specific factors which may include (1) physical site characteristics

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

26 Upon a determination by the department that the requested
27 alternative remediation standard satisfies the department's
28 regulations, is protective of public health and safety, as established
29 in subsection d. of this section, and is protective of the environment
30 pursuant to subsection a. of this section, the alternative residential
31 use or nonresidential use soil remediation standard shall be
32 approved by the department. The burden to demonstrate that the
33 requested alternative remediation standard is protective rests with
34 the person requesting the alternative standard and the department
35 may require the submission of any documentation as the department
36 determines to be necessary in order for the person to meet that
37 burden.

38 (2) The department may, upon its own initiative, require an
39 alternative remediation standard for a particular contaminant for a
40 specific real property site, in lieu of using the established minimum
41 residential use or nonresidential use soil remediation standard
42 adopted by the department for a particular contaminant pursuant to
43 this section. The department may require an alternative remediation
44 standard pursuant to this paragraph upon a determination by the
45 department, based on the weight of the scientific evidence, that due
46 to specific physical site characteristics of the subject real property,
47 including, but not limited to, its proximity to surface water, the use
48 of the adopted residential use or nonresidential use soil remediation

1 standards would not be protective, or would be unnecessarily
2 overprotective, of public health or safety or of the environment, as
3 appropriate.

4 g. The development, selection, and implementation of any
5 remediation standard or remedial action shall ensure that it is
6 protective of public health, safety, and the environment, as
7 applicable, as provided in this section. In determining the
8 appropriate remediation standard or remedial action that shall occur
9 at a site, the department and any person performing the remediation,
10 shall base the decision on the following factors:

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

1 department may not require a person to compare or investigate any
2 alternative remedial action as part of its review of the selected
3 remedial action. The department may disapprove the selection of a
4 remedial action for a site on which the proposed remedial action
5 will render the property unusable for future redevelopment or for
6 recreational use;

7 (2) Contamination may, upon the department's approval, be left
8 onsite at levels or concentrations that exceed the minimum soil
9 remediation standards for residential use if the implementation of
10 institutional or engineering controls at that site will result in the
11 protection of public health, safety and the environment at the health
12 risk standard established in subsection d. of this section, if the
13 requirements established in subsections a., b., c. and d. of section 36
14 of P.L.1993, c.139 (C.58:10B-13), and paragraphs (1) and (10) of
15 this subsection, are met. The department may also require the
16 treatment or removal of contaminated material that would pose an
17 acute health or safety hazard in the event of failure of an
18 engineering control;

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

37 (4) Remediation shall not be required beyond the regional
38 natural background levels for any particular contaminant. The
39 department shall develop regulations that set forth a process to
40 identify background levels of contaminants for a particular region.
41 For the purpose of this paragraph "regional natural background
42 levels" means the concentration of a contaminant consistently
43 present in the environment of the region of the site and which has
44 not been influenced by localized human activities;

45 (5) Remediation shall not be required of the owner or operator
46 of real property for contamination coming onto the site from
47 another property owned and operated by another person, unless the

1 owner or operator is the person who is liable for cleanup and
2 removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

3 (6) Groundwater that is contaminated shall not be required to be
4 remediated to a level or concentration for any particular
5 contaminant lower than the level or concentration that is migrating
6 onto the property from another property owned and operated by
7 another person;

8 (7) The technical performance, effectiveness and reliability of
9 the proposed remedial action in attaining and maintaining
10 compliance with applicable remediation standards and required
11 health risk standards shall be considered. In reviewing a proposed
12 remedial action, the department or the licensed site remediation
13 professional shall also consider the ability of the owner or operator
14 to implement the proposed remedial action within a reasonable time
15 frame without jeopardizing public health, safety or the environment;

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

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

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

1 protective of the public health and safety may be proposed for
2 review and approval by the department;

3 (11) The department may authorize a person conducting a
4 remediation to divide a contaminated site into one or more areas of
5 concern. For each area of concern, a different remedial action may
6 be selected provided the requirements of this subsection are met and
7 the remedial action selected is consistent with the future use of the
8 property; and

9 (12) The construction of single family residences, public
10 schools, private schools, or charter schools, or child care centers
11 shall be prohibited on a landfill that undergoes a remediation if
12 engineering controls are required for the management of landfill gas
13 or leachate.

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

18 The department may require the person responsible for
19 conducting the remediation to supply the information required
20 pursuant to this subsection as is necessary for the department to
21 make a determination.

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

1 and non-hazardous solid waste. Historic fill material shall not
2 include any material which is substantially chromate chemical
3 production waste or any other chemical production waste or waste
4 from processing of metal or mineral ores, residues, slags or tailings.

5 (2) The department shall develop recommendations for remedial
6 actions in large areas of historic industrial contamination. These
7 recommendations shall be designed to meet the health risk
8 standards established in subsection d. of this section, and to be
9 protective of the environment and shall take into account the
10 industrial history of these sites, the extent of the contamination that
11 may exist, the costs of remedial actions, the economic impacts of
12 these policies, and the anticipated uses of these properties. The
13 department shall issue a report to the Senate Environment and
14 Energy Committee and to the Assembly Environment and Solid
15 Waste Committee, or their successors, explaining these
16 recommendations and making any recommendations for legislative
17 or regulatory action.

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

24 i. The department may not require a remedial action workplan
25 to be prepared or implemented or engineering or institutional
26 controls to be imposed upon any real property unless sampling
27 performed at that real property demonstrates the existence of
28 contamination above the applicable remediation standards.

29 j. Upon the approval by the department or by a licensed site
30 remediation professional of a remedial action workplan, or similar
31 plan that describes the extent of contamination at a site and the
32 remedial action to be implemented to address that contamination,
33 the department may not subsequently require a change to that
34 workplan or similar plan in order to compel a different remediation
35 standard due to the fact that the established remediation standards
36 have changed; however, the department may compel a different
37 remediation standard if the difference between the new remediation
38 standard and the remediation standard approved in the workplan or
39 other plan differs by an order of magnitude. The limitation to the
40 department's authority to change a workplan or similar plan
41 pursuant to this subsection shall only apply if the workplan or
42 similar plan is being implemented in a reasonable timeframe, as
43 may be indicated in the approved remedial action workplan or
44 similar plan.

45 k. Notwithstanding any other provisions of this section, all
46 remediation standards and remedial actions that involve real
47 property located in the Pinelands area shall be consistent with the
48 provisions of the "Pinelands Protection Act," P.L.1979, c.111

(C.13:18A-1 et seq.), any rules and regulations promulgated pursuant thereto, and with section 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C. s.471i [; and all remediation standards and remedial actions that involve real property located in the Highlands preservation area shall be consistent with the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highlands regional master plan adopted pursuant thereto] .

l. Upon the adoption of a remediation standard for a particular contaminant in soil, groundwater, or surface water pursuant to this section, the department may amend that remediation standard only upon a finding that a new standard is necessary to maintain the health risk standards established in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as applicable. The department may not amend a public health based soil remediation standard to a level that would result in a health risk standard more protective than that provided for in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12).

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

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

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

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

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

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

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

12 This bill amends P.L.1999, c.225 (C.58:29-8) to provide that the
13 amount of the payment of watershed moratorium offset aid each
14 year would be the municipality’s pro rata share of the balance of the
15 “Watershed Protection Fund,” available after the allocation to the
16 Pinelands Property Tax Assistance Fund is made, based upon the
17 number of acres subject to the watershed moratorium located within
18 the municipality.

19 This bill also amends section 8 of P.L.2005, c.178 (C.13:8C-
20 38.2), which requires the State Agriculture Development Committee
21 to prepare and issue periodic reports listing the farms preserved
22 under the State development easement and fee simple acquisition
23 programs and listing the farms receiving soil and water grants, by
24 deleting the requirement to provide a copy of these reports to the
25 Highlands Council.

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

29 Lastly, this bill makes technical amendments to update statutory
30 text.