

SENATE, No. 427

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator MICHAEL J. DOHERTY

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

3

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

6

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

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

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

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

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

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

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

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

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 municipal planning board and governing body of a municipality to
2 be necessary for commercial or industrial use for the economic
3 viability of the municipality.

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

9 "Construction materials facility" means any facility or land upon
10 which the activities of production of ready mix concrete,
11 bituminous concrete, or class B recycling occurs [;] .

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

15 "Department" means the Department of Environmental
16 Protection [;] .

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

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

21 "Disturbance" means the placement of impervious surface, the
22 exposure or movement of soil or bedrock, or the clearing, cutting,
23 or removing of vegetation [;] .

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

35 "Facility expansion" means the expansion of the capacity of an
36 existing capital improvement in order that the improvement may
37 serve new development [;] .

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

46 "Farm management unit" means a parcel or parcels of land,
47 whether contiguous or noncontiguous, together with agricultural or

1 horticultural buildings, structures and facilities, producing
2 agricultural or horticultural products, and operated as a single
3 enterprise **【;】** .

4 "Highlands open waters" means all springs, streams including
5 intermittent streams, wetlands, and bodies of surface water, whether
6 natural or artificial, located wholly or partially within the
7 boundaries of the Highlands Region, but shall not mean swimming
8 pools **【;】** .

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

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

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

26 "Impervious surface" means any structure, surface, or
27 improvement that reduces or prevents absorption of stormwater into
28 land, and includes porous paving, paver blocks, gravel, crushed
29 stone, decks, patios, elevated structures, and other similar
30 structures, surfaces, or improvements **【;】** .

31 "Individual unit of development" means a dwelling unit in the
32 case of a residential development, a square foot in the case of a non-
33 residential development, or any other standard employed by a
34 municipality for different categories of development as a basis upon
35 which to establish a service unit **【;】** .

36 "Local government unit" means a municipality, county, or other
37 political subdivision of the State, or any agency, board,
38 commission, utilities authority or other authority, or other entity
39 thereof **【;】** .

40 "Major Highlands development" means, except as otherwise
41 provided pursuant to subsection a. of section 30 of **【this act】**
42 P.L.2004, c.120 (C.13:20-28) , (1) any non-residential development
43 in the preservation area; (2) any residential development in the
44 preservation area that requires an environmental land use or water
45 permit or that results in the ultimate disturbance of one acre or more
46 of land or a cumulative increase in impervious surface by one-
47 quarter acre or more; (3) any activity undertaken or engaged in the

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

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

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

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

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

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

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

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

45 "Regional master plan" means the Highlands regional master
46 plan or any revision thereof adopted by the council pursuant to
47 section 8 of **【this act;】** P.L.2004, c.120 (C.13:20-8).

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

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

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

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

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

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

29 "State entity" means any State department, agency, board,
30 commission, or other entity, district water supply commission,
31 independent State authority or commission, or bi-state entity [;] .

32 "State Soil Conservation Committee" means the State Soil
33 Conservation Committee in the Department of Agriculture
34 established pursuant to R.S.4:24-3 [;] .

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

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

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

45

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

- 1 11. a. The regional master plan shall include, but need not
2 necessarily be limited to:
- 3 (1) A resource assessment which:
- 4 (a) determines the amount and type of human development and
5 activity which the ecosystem of the Highlands Region can sustain
6 while still maintaining the overall ecological values thereof, with
7 special reference to surface and ground water quality and supply;
8 contiguous forests and woodlands; endangered and threatened
9 animals, plants, and biotic communities; ecological factors relating
10 to the protection and enhancement of agricultural or horticultural
11 production or activity; air quality; and other appropriate
12 considerations affecting the ecological integrity of the Highlands
13 Region; and
- 14 (b) includes an assessment of scenic, aesthetic, cultural, historic,
15 open space, farmland, and outdoor recreation resources of the
16 region, together with a determination of overall policies required to
17 maintain and enhance such resources;
- 18 (2) A financial component, together with a cash flow timetable
19 which:
- 20 (a) details the cost of implementing the regional master plan,
21 including, but not limited to, property tax stabilization measures,
22 watershed moratorium offset aid, planning grants and other State
23 aid for local government units, capital requirements for any
24 development transfer bank, payments in lieu-of-taxes, acquisition,
25 within five years and within 10 years after the date of enactment of
26 **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) , of fee simple or other
27 interests in lands for preservation or recreation and conservation
28 purposes, compensation guarantees, general administrative costs,
29 and any anticipated extraordinary or continuing costs; and
- 30 (b) details the sources of revenue for covering such costs,
31 including, but not limited to, grants, donations, and loans from
32 local, State, and federal departments, agencies, and other
33 governmental entities, and from the private sector;
- 34 (3) A component to provide for the maximum feasible local
35 government and public input into the council's operations, which
36 shall include a framework for developing policies for the planning
37 area in conjunction with those local government units in the
38 planning area who choose to conform to the regional master plan;
- 39 (4) A coordination and consistency component which details the
40 ways in which local, State, and federal programs and policies may
41 best be coordinated to promote the goals, purposes, policies, and
42 provisions of the regional master plan, and which details how land,
43 water, and structures managed by governmental or
44 nongovernmental entities in the public interest within the Highlands
45 Region may be integrated into the regional master plan;
- 46 (5) A transportation component that provides a plan for
47 transportation system preservation, includes all federally mandated
48 projects or programs, and recognizes smart growth strategies and

1 principles. The transportation component shall include projects to
2 promote a sound, balanced transportation system that is consistent
3 with smart growth strategies and principles and which preserves
4 mobility and maintains the transportation infrastructure of the
5 Highlands Region. Transportation projects and programs shall be
6 reviewed and approved by the council in consultation with the
7 Department of Transportation prior to inclusion in the
8 transportation component; and

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

19 (a) prepare a land use capability map;

20 (b) identify existing developed areas capable of sustaining
21 redevelopment activities and investment;

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

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

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

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

41 (g) identify special critical environmental areas and other
42 critical natural resource lands where development should be
43 limited; and

44 (h) identify areas appropriate for redevelopment and set
45 appropriate density standards for redevelopment. Any area
46 identified for possible redevelopment pursuant to this subparagraph
47 shall be either a brownfield site designated by the Department of

1 Environmental Protection or a site at which at least 70% of the area
2 thereof is covered with impervious surface.

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

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

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

13

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

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

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

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

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

46 Notwithstanding any provision of this section to the contrary,
47 nothing in the regional master plan shall be deemed to supersede the
48 right and authority of a municipality or a county to exercise

1 planning or zoning authority in connection with property located
2 within a commercial corridor.

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

4

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

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

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

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

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

42 c. The council may revoke a conformance approval granted
43 pursuant to this section or section 15 of **【this act】** P.L.2004, c.120
44 (C.13:20-15) , after conducting a hearing, if the council finds that
45 the local government unit has taken action inconsistent with the
46 regional master plan.

47 d. In the event that any municipality or county fails to adopt or
48 enforce an approved revised master plan, development regulations,

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

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

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

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

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

45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42
43 6. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to
44 read as follows:

45 30. a. The following are exempt from the provisions of this act,
46 the regional master plan, any rules or regulations adopted by the
47 Department of Environmental Protection pursuant to **[this act]**
48 P.L.2004, c.120 (C.13:20-1 et al.), or any amendments to a master

- 1 plan, development regulations, or other regulations adopted by a
2 local government unit to specifically conform them with the
3 regional master plan:
- 4 (1) the construction of a single family dwelling, for an
5 individual's own use or the use of an immediate family member, on
6 a lot owned by the individual on the date of enactment of **[this act]**
7 P.L.2004, c.120 (C.13:20-1 et al.) or on a lot for which the
8 individual has on or before May 17, 2004 entered into a binding
9 contract of sale to purchase that lot;
- 10 (2) the construction of a single family dwelling on a lot in
11 existence on the date of enactment of **[this act]** P.L.2004, c.120
12 (C.13:20-1 et al.) , provided that the construction does not result in
13 the ultimate disturbance of one acre or more of land or a cumulative
14 increase in impervious surface by one-quarter acre or more;
- 15 (3) a major Highlands development that received on or before
16 March 29, 2004:
- 17 (a) one of the following approvals pursuant to the "Municipal
18 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):
- 19 (i) preliminary or final site plan approval;
- 20 (ii) final municipal building or construction permit;
- 21 (iii) minor subdivision approval where no subsequent site plan
22 approval is required;
- 23 (iv) final subdivision approval where no subsequent site plan
24 approval is required; or
- 25 (v) preliminary subdivision approval where no subsequent site
26 plan approval is required; and
- 27 (b) at least one of the following permits from the Department of
28 Environmental Protection, if applicable to the proposed major
29 Highlands development:
- 30 (i) a permit or certification pursuant to the "Water Supply
31 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);
- 32 (ii) a water extension permit or other approval or authorization
33 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224
34 (C.58:12A-1 et seq.);
- 35 (iii) a certification or other approval or authorization issued
36 pursuant to the "The Realty Improvement Sewerage and Facilities
37 Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or
- 38 (iv) a treatment works approval pursuant to the "Water Pollution
39 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or
- 40 (c) one of the following permits from the Department of
41 Environmental Protection, if applicable to the proposed major
42 Highlands development, and if the proposed major Highlands
43 development does not require one of the permits listed in
44 subparagraphs (i) through (iv) of subparagraph (b) of this
45 paragraph:
- 46 (i) a permit or other approval or authorization issued pursuant
47 to the "Freshwater Wetlands Protection Act," P.L.1987, c.156
48 (C.13:9B-1 et seq.); or

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

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

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

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

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

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

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

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

46 (10) the construction of transportation safety projects and
47 bicycle and pedestrian facilities by a State entity or local

1 government unit, provided that the activity does not result in the
2 construction of any new through-capacity travel lanes;

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

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

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

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

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

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

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

35 (18) the construction or reconstruction of commercial or
36 industrial development within a commercial corridor .

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

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

45 d. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall
46 be construed to repeal, reduce, or otherwise modify the obligation
47 of counties, municipalities, and other municipal and public agencies

1 of the State to pay property taxes on lands used for the purpose and
2 for the protection of a public water supply, without regard to any
3 buildings or other improvements thereon, pursuant to R.S.54:4-3.3.
4 (cf: P.L.2009, c.256, s.11)

5
6 7. This act shall take effect immediately.

7
8
9 STATEMENT

10
11 This bill amends the “Highlands Water Protection and Planning
12 Act,” P.L.2004, c.120 (C.13:20-1 et al.), to (1) clarify municipal
13 planning or zoning authority, and (2) provide an exemption from
14 the Highlands permitting review program for certain development
15 along commercial corridors in the Highlands Region.

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

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

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

43 This bill is meant to encourage reasonable and necessary
44 economic growth in the Highlands Region as set forth in the
45 findings and declarations section of the “Highlands Water
46 Protection and Planning Act” that “it is important to ensure the
47 economic viability of communities throughout the New Jersey
48 Highlands; and that residential, commercial, and industrial

1 development, redevelopment, and economic growth in certain
2 appropriate areas of the New Jersey Highlands are also in the best
3 interests of all the citizens of the State, providing innumerable
4 social, cultural, and economic benefits and opportunities.” This bill
5 would further these findings and declarations by providing that
6 commercial corridors along well-traveled thoroughfares are
7 appropriate areas for economic development in the Highlands
8 Region.