

ASSEMBLY, No. 100

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROONEY

1 AN ACT concerning the protection of steep slopes, amending
2 P.L.1975, c.291, and supplementing chapter 24 of Title 4 of the
3 Revised Statutes.

4

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

7

8 1. (New section) This act shall be known, and may be cited, as the
9 "Steep Slope Protection Act."

10

11 2. (New section) The Legislature finds and declares that the
12 removal of vegetative cover, the disturbance of soil by excavation or
13 fill, and the construction of buildings and other structures in areas with
14 steep slopes may cause increased surface water runoff, soil erosion,
15 and siltation, and other undesirable or dangerous conditions or
16 hazards, resulting in pollution of the waterways and public water
17 supply reservoirs and other public water supply sources in the State,
18 increased flooding and water-related damage, unsightly landscapes,
19 and other threats to the public health, safety, and welfare.

20 The Legislature therefore determines that it is appropriate to
21 regulate development in certain areas with steep slopes by requiring
22 each municipality that is located in whole or in part within a watershed
23 that feeds in whole or in part a public water supply reservoir, or is
24 located in whole or in part within a watershed upstream of a surface
25 water supply intake, to amend its development regulations to
26 incorporate, at a minimum, a model local steep slope protection
27 development regulation, which shall be drafted by the State Soil
28 Conservation Committee and representatives of the New Jersey Water
29 Supply Authority, the North Jersey District Water Supply
30 Commission, the public water utility serving the city of Jersey City, the
31 public water utility serving the city of Newark, the New Jersey Society
32 of Municipal Engineers, and the State Planning Commission, with the

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

Matter underlined thus is new matter.

1 approval of the Commissioner of Environmental Protection and the
2 Secretary of Agriculture; and that is in the public interest for all other
3 municipalities in the State with steep slopes to consider, at their
4 option, taking similar action with respect to adopting, at a minimum,
5 the model local steep slope protection development regulation.

6
7 3. (New section) As used in this act:

8 "Applicant" means the same as that term is defined in section 3 of
9 P.L.1975, c.191 (C.40:55D-3).

10 "Application for development" means the same as that term is
11 defined in section 3 of P.L.1975, c.191 (C.40:55D-3).

12 "Committee" means the State Soil Conservation Committee
13 established pursuant to R.S.4:24-3 and, for the purposes of this act
14 only, a representative of the New Jersey Water Supply Authority, a
15 representative of the North Jersey District Water Supply Commission,
16 a representative from the public water utility serving the city of Jersey
17 City, a representative from the public water utility serving the city of
18 Newark, a representative from the New Jersey Society of Municipal
19 Engineers, and a representative of the State Planning Commission.

20 "Development" means the same as that term is defined in section
21 3.1 of P.L.1975, c.191 (C.40:55D-4).

22 "Development regulation" means the same as that term is defined
23 in section 3.1 of P.L.1975, c.191 (C.40:55D-4).

24 "Disturbance" means the same as that term is defined in section 3
25 of P.L.1975, c.251 (C.4:24-41).

26 "Public water supply reservoir" means any public water supply
27 reservoir constructed, owned, operated, or maintained in whole or in
28 part for the purpose of providing water for human consumption, and
29 which is identified as such by the Department of Environmental
30 Protection; "public water supply reservoir" shall include, but need not
31 be limited to: (1) any of the public water supply reservoirs identified
32 by the department in the study required pursuant to section 3 of
33 P.L.1988, c.163; (2) any other public water supply reservoir
34 constructed, owned, operated, or maintained by the State, the New
35 Jersey Water Supply Authority, or a county or municipality, district
36 water supply commission, county or municipal utilities authority,
37 county or municipal commission, municipal water district, joint
38 meeting, or any other political subdivision, authority, instrumentality,
39 or agency of the State authorized pursuant to law to construct, own,
40 operate, or maintain water supply facilities or otherwise provide water
41 for human consumption; and (3) any public water supply reservoir
42 constructed, owned, operated, or maintained by a public water utility.

43 "Public water utility" means any investor-owned water company or
44 small water company that is subject to the jurisdiction or rate
45 regulation of the Board of Regulatory Commissioners as a public
46 utility.

1 "Soil" means the same as that term is defined in section 3 of
2 P.L.1975, c.251 (C.4:24-41).

3 "Soil conservation district" means a soil conservation district
4 organized pursuant to chapter 24 of Title 4 of the Revised Statutes.

5
6 4. (New section) The State Soil Conservation Committee, and, for
7 the purposes of this act only, a representative of the New Jersey Water
8 Supply Authority, a representative of the North Jersey District Water
9 Supply Commission, a representative from the public water utility
10 serving the city of Jersey City, a representative from the public water
11 utility serving the city of Newark, a representative from the New
12 Jersey Society of Municipal Engineers, and a representative of the
13 State Planning Commission, shall together, with the approval of the
14 Commissioner of Environmental Protection and the Secretary of
15 Agriculture, and within six months of the date of enactment of this
16 act, develop and adopt, pursuant to the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.):

18 a. A model local steep slope protection development regulation for
19 the purpose of preserving and protecting steep slopes from
20 development and the consequences of development, which (1) would
21 further the Statewide policies concerning the protection of critical
22 slopes as set forth in the State Development and Redevelopment Plan
23 adopted pursuant to the "State Planning Act," P.L.1985, c.398
24 (C.52:18A-196 et seq.), and
25 (2) may include, but not be limited to, land use regulatory options such
26 as the clustering of development in areas that do not have steep slopes,
27 impervious cover restrictions, structural size and footprint limitations,
28 and large lot zoning, for consideration and adoption by a municipality;
29 and

30 b. Minimum standards for the purposes of section 5 of this act for
31 the regulation of disturbances of soil, which standards may reflect the
32 differing soil types, soil conditions, soil erodability, topography,
33 hydrology, geology, and vegetation types of the various regions of the
34 State.

35
36 5. (New section) The model local steep slope protection
37 development regulation shall include at least the following provisions:

38 a. Disturbances of soil, for purpose of development, of more than
39 5,000 square feet of surface area of land on a slope exhibiting a grade
40 of 25% or greater shall be prohibited, except an applicant may apply
41 for and obtain a variance to allow a departure from this prohibition as
42 set forth in the development regulation if the granting of the variance
43 is warranted under the provisions of subsection c. of section 57 of
44 P.L.1975, c.291 (C.40:55D-70);

45 b. Disturbances of soil, for purpose of development, of more than
46 5,000 square feet of surface area of land on a slope exhibiting a grade

1 of 10% or greater but less than 25% shall be regulated in accordance
2 with minimum standards to be developed therefor, and adopted, by the
3 committee pursuant to subsection b. of section 4 of this act;

4 c. Agricultural operations utilizing best management practices may
5 be exempted by a municipality from the requirements of the model
6 local steep slope protection development regulation that it has
7 adopted, or may be subjected to less stringent requirements as may be
8 prescribed by that municipality;

9 d. Reconstruction or repair of a development, located on a slope
10 with a surface area of land of more than 5,000 square feet and
11 exhibiting a grade of 10% or greater, which development existed prior
12 to adoption by a municipality of its model local steep slope protection
13 development regulation, may be undertaken notwithstanding any
14 provision of this act or the model local steep slope protection
15 development regulation to the contrary, but only in a manner that shall
16 protect the existing slope to the maximum extent feasible, as shall be
17 determined by the planning board of the municipality on a case-by-case
18 basis after consultation with the environmental commission thereof if
19 one exists for that municipality and with the applicable soil
20 conservation district, if any, having jurisdiction in the municipality; and

21 e. Any application for development within a municipality for which
22 preliminary site plan or preliminary subdivision approval has been
23 granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291
24 (C.40:55D-1 et seq.) prior to adoption by the municipality of the
25 model local steep slope protection development regulation pursuant to
26 section 6 of this act shall not be required to comply with the provisions
27 of the model local steep slope protection development regulation
28 adopted by the municipality.

29

30 6. (New section) a. Except as provided in section 7 of this act,
31 every municipality that is located in whole or in part within a
32 watershed that feeds in whole or in part a public water supply
33 reservoir, or that is located in whole or in part within a watershed
34 upstream of a surface water supply intake, shall, within one year of
35 adoption by the committee of the model local steep slope protection
36 development regulation, amend its development regulations adopted
37 pursuant to the "Municipal Land Use Law" to incorporate provisions
38 that substantially conform with, or are more stringent than, the model
39 local steep slope protection development regulation adopted by the
40 committee. If any such municipality fails to amend its development
41 regulations as required pursuant to this subsection within the one year
42 period provided, the model local steep slope protection development
43 regulation shall be deemed to have been incorporated as part of the
44 development regulations of that municipality and shall be binding upon
45 the municipality and all other persons in the same manner as if the
46 municipality had amended its development regulations in accordance

1 with the provisions and requirements of this section.

2 The committee, in consultation with the Department of
3 Environmental Protection and the Department of Agriculture, shall
4 determine which municipalities qualify under the criteria set forth in
5 this subsection with respect to mandatory adoption of the model local
6 steep slope protection development regulation.

7 b. (1) Prior to amending its development regulations as required
8 pursuant to subsection a. of this section, a municipality shall submit
9 the proposed amendments to the committee for review. The
10 committee shall, within 90 days of such submittal, either approve,
11 disapprove, or conditionally approve the amendments. Failure of the
12 committee to act within that 90-day period shall be deemed to
13 constitute approval of the amendments.

14 (2) Any subsequent amendment or revision of an amendment to the
15 development regulations of a municipality that has been approved
16 pursuant to paragraph (1) of this subsection shall require approval by
17 the committee in accordance with the procedure set forth in that
18 paragraph.

19 c. A municipality that does not qualify under the criteria set forth
20 in subsection a. of this section with respect to mandatory adoption of
21 the model local steep slope protection development regulation may, at
22 its option, amend its development regulations adopted pursuant to the
23 "Municipal Land Use Law" to incorporate all or any portion of the
24 provisions of the model local steep slope protection development
25 regulation adopted by the committee. If such a municipality makes
26 those amendments, it need not comply with the requirements of
27 subsection b. of this section.

28

29 7. (New section) A municipality that qualifies under the criteria set
30 forth in subsection a. of section 6 of this act with respect to mandatory
31 adoption of the model local steep slope protection development
32 regulation may apply to the committee for an exemption from the
33 requirements of section 6 of this act if it can demonstrate that those
34 requirements are substantially inapplicable due to the lack of slopes in
35 the municipality with a surface area of land of more than 5,000 square
36 feet and exhibiting a grade of 10% or greater.

37

38 8. (New section) State, county, and municipal entities,
39 departments, agencies, commissions, boards, and authorities, and
40 independent entities, agencies, commissions, boards, and authorities,
41 shall comply with any development regulation or other provision
42 adopted by a municipality pursuant to this act.

43

44 9. (New section) A municipality may adopt provisions for the
45 preservation and protection of steep slopes that are more stringent
46 than those required pursuant to this act.

1 10. (New section) a. The committee shall consult with the
2 Pinelands Commission in developing the model local steep slope
3 protection development regulation and the minimum standards for the
4 regulation of disturbances of soils, as required pursuant to sections 4
5 and 5 of this act, as they may apply for areas within the jurisdiction of
6 the Pinelands Commission, and the committee shall develop them in a
7 manner necessary to effectuate the purposes of the "Pinelands
8 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) and section 502
9 of the "National Parks and Recreation Act of 1978," 16 U.S.C. §471i.

10 b. Nothing in this act shall be construed to:

11 (1) modify the provisions of the "Pinelands Protection Act" or any
12 rules or regulations promulgated or adopted pursuant thereto, or to
13 modify the provisions of section 502 of the "National Parks and
14 Recreation Act of 1978," 16 U.S.C. §471i, or any rules or regulations
15 promulgated or adopted pursuant thereto;

16 (2) prohibit the Pinelands Commission from adopting provisions for
17 the preservation and protection of steep slopes that are more stringent
18 than those required pursuant to this act.

19

20 11. (New section) a. A person violating this act, or any
21 development regulation adopted by a municipality in accordance
22 therewith, shall be liable to a civil penalty not to exceed \$3,000 for
23 each offense, to be imposed and collected with costs in a civil action
24 by a summary proceeding in accordance with "the penalty enforcement
25 law," N.J.S. 2A:58-1 et seq. If the violation is of a continuing nature,
26 each day during which it continues shall constitute an additional
27 separate and distinct offense. The Superior Court and the municipal
28 court shall have jurisdiction to enforce "the penalty enforcement law"
29 for violations of this act or of any development regulation adopted by
30 a municipality in accordance therewith.

31 b. The Department of Environmental Protection, or the
32 municipality or soil conservation district within which the violation
33 occurred, may issue a stop-construction order, or seek injunctive or
34 other relief from a court of competent jurisdiction, for a violation of
35 this act or of any development regulation adopted by the municipality
36 in accordance therewith.

37 c. The penalties and remedies provided in this section are in
38 addition to those that may apply if the violation may also be deemed
39 to be a violation of the "Municipal Land Use Law," the "Soil Erosion
40 and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), or
41 any other provision of law or local ordinance or regulation.

42 d. Violations of this act, or of any development regulation adopted
43 by a municipality in accordance therewith, shall be enforceable by the
44 Department of Environmental Protection and by the municipality and
45 the soil conservation district within which the violation occurred. Any
46 penalties collected pursuant to this section shall be paid to the

1 enforcing entity, except those penalties recovered by the Department
2 of Environmental Protection shall be remitted to the State Treasury.

3 e. (1) Any municipality that becomes aware of a violation of this
4 act, or of any development regulation adopted by the municipality in
5 accordance therewith, shall, within five days thereof, report the
6 violation to the soil conservation district within which the violation
7 occurred.

8 (2) Any soil conservation district that becomes aware of a violation
9 of this act, or of any development regulation adopted by the
10 municipality in accordance therewith, shall, within five days thereof,
11 report the violation to the municipality within which the violation
12 occurred.

13 f. Failure of a municipality that qualifies under the criteria set forth
14 in subsection a. of section 6 of this act with respect to mandatory
15 adoption of the model local steep slope protection development
16 regulation to comply with the requirements and provisions of this act,
17 including the requirements of section 6 thereof, shall be deemed to be
18 a violation of this act.

19

20 12. Section 29 of P.L.1975, c.291 (C.40:55D-38) is amended to
21 read as follows:

22 29. Contents of ordinance. An ordinance requiring approval by the
23 planning board of either subdivisions or site plans, or both, shall
24 include the following:

25 a. Provisions, not inconsistent with other provisions of this act, for
26 submission and processing of applications for development, including
27 standards for preliminary and final approval and provisions for
28 processing of final approval by stages or sections of development;

29 b. Provisions ensuring:

30 (1) Consistency of the layout or arrangement of the subdivision or
31 land development with the requirements of the zoning ordinance;

32 (2) Streets in the subdivision or land development of sufficient
33 width and suitable grade and suitably located to accommodate
34 prospective traffic and to provide access for firefighting and
35 emergency equipment to buildings and coordinated so as to compose
36 a convenient system consistent with the official map, if any, and the
37 circulation element of the master plan, if any, and so oriented as to
38 permit, consistent with the reasonable utilization of land, the buildings
39 constructed thereon to maximize solar gain; provided that no street of
40 a width greater than 50 feet within the right-of-way lines shall be
41 required unless [said] that street constitutes an extension of an existing
42 street of the greater width, or already has been shown on the master
43 plan at the greater width, or already has been shown in greater width
44 on the official map;

45 (3) Adequate water supply, drainage, shade trees, sewerage
46 facilities and other utilities necessary for essential services to residents

- 1 and occupants;
- 2 (4) Suitable size, shape and location for any area reserved for
3 public use pursuant to section 32 of this act;
- 4 (5) Reservation pursuant to section 31 of this act of any open
5 space to be set aside for use and benefit of the residents of planned
6 development, resulting from the application of standards of density or
7 intensity of land use, contained in the zoning ordinance, pursuant to
8 subsection c. of section 52 of this act;
- 9 (6) Regulation of land designated as subject to flooding, pursuant
10 to subsection e. of section 52 of this act, to avoid danger to life or
11 property;
- 12 (7) Protection and conservation of soil from erosion by wind or
13 water or from excavation or grading, including, for a municipality that
14 qualifies under the criteria set forth in subsection a. of section 6 of
15 P.L. , c. (C.) (now before the Legislature as this bill) with
16 respect to mandatory adoption of the model local steep slope
17 protection development regulation, protection of steep slopes in
18 accordance with the provisions and requirements of that act ;
- 19 (8) Conformity with standards promulgated by the Commissioner
20 of Transportation, pursuant to the "Air Safety and Hazardous Zoning
21 Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), for any airport
22 hazard areas delineated under that act;
- 23 (9) Conformity with a municipal recycling ordinance required
24 pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16);
- 25 (10) Conformity with the State highway access management code
26 adopted by the Commissioner of Transportation under section 3 of the
27 "State Highway Access Management Act," P.L.1989, c.32
28 (C.27:7-91), with respect to any State highways within the
29 municipality;
- 30 (11) Conformity with any access management code adopted by the
31 county under R.S.27:16-1, with respect to any county roads within the
32 municipality;
- 33 (12) Conformity with any municipal access management code
34 adopted under R.S.40:67-1, with respect to municipal streets;
- 35 (13) Protection of potable water supply reservoirs from pollution
36 or other degradation of water quality resulting from the development
37 or other uses of surrounding land areas, which provisions shall be in
38 accordance with any siting, performance, or other standards or
39 guidelines adopted therefor by the Department of Environmental
40 Protection;
- 41 (14) Conformity with the public safety regulations concerning
42 storm water detention facilities adopted pursuant to section 5 of
43 P.L.1991, c.194 (C.40:55D-95.1) and reflected in storm water
44 management plans and storm water management ordinances adopted
45 pursuant to P.L.1981, c.32 (C.40:55D-93 et seq.); and
- 46 (15) Conformity with the model ordinance promulgated by the

1 Department of Environmental Protection and Department of
2 Community Affairs pursuant to section 2 of P.L.1993, c.81
3 (C.13:1E-99.13a) regarding the inclusion of facilities for the collection
4 or storage of source separated recyclable materials in any new
5 multifamily housing development.

6 c. Provisions governing the standards for grading, improvement
7 and construction of streets or drives and for any required walkways,
8 curbs, gutters, streetlights, shade trees, fire hydrants and water, and
9 drainage and sewerage facilities and other improvements as shall be
10 found necessary, and provisions ensuring that such facilities shall be
11 completed either prior to or subsequent to final approval of the
12 subdivision or site plan by allowing the posting of performance bonds
13 by the developer;

14 d. Provisions ensuring that when a municipal zoning ordinance is
15 in effect, a subdivision or site plan shall conform to the applicable
16 provisions of the zoning ordinance, and where there is no zoning
17 ordinance, appropriate standards shall be specified in an ordinance
18 pursuant to this article; and

19 e. Provisions ensuring performance in substantial accordance with
20 the final development plan; provided that the planning board may
21 permit a deviation from the final plan, if caused by change of
22 conditions beyond the control of the developer since the date of final
23 approval, and the deviation would not substantially alter the character
24 of the development or substantially impair the intent and purpose of
25 the master plan and zoning ordinance.

26 (cf: P.L.1993, c.81, s.1)

27

28 13. Section 52 of P.L.1975, c.291 (C.40:55D-65) is amended to
29 read as follows:

30 52. A zoning ordinance may:

31 a. Limit and restrict buildings and structures to specified districts
32 and regulate buildings and structures according to their type and the
33 nature and extent of their use, and regulate the nature and extent of
34 the use of land for trade, industry, residence, open space or other
35 purposes.

36 b. Regulate the bulk, height, number of stories, orientation, and
37 size of buildings and the other structures; the percentage of lot or
38 development area that may be occupied by structures; lot sizes and
39 dimensions; and for these purposes may specify floor area ratios and
40 other ratios and regulatory techniques governing the intensity of land
41 use and the provision of adequate light and air, including, but not
42 limited to the potential for utilization of renewable energy sources.

43 c. Provide districts for planned developments; provided that an
44 ordinance providing for approval of subdivisions and site plans by the
45 planning board has been adopted and incorporates therein the
46 provisions for such planned developments in a manner consistent with

1 article 6 of this act. The zoning ordinance shall establish standards
2 governing the type and density, or intensity of land use, in a planned
3 development. Said standards shall take into account that the density,
4 or intensity of land use, otherwise allowable may not be appropriate
5 for a planned development. The standards may vary the type and
6 density, or intensity of land use, otherwise applicable to the land
7 within a planned development in consideration of the amount, location
8 and proposed use of common open space; the location and physical
9 characteristics of the site of the proposed planned development; and
10 the location, design and type of dwelling units and other uses. Such
11 standards may, in order to encourage the flexibility of housing density,
12 design and type, authorize a deviation in various residential clusters
13 from the density, or intensity of use, established for an entire planned
14 development. The standards and criteria by which the design, bulk and
15 location of buildings are to be evaluated shall be set forth in the zoning
16 ordinance and all standards and criteria for any feature of a planned
17 development shall be set forth in such ordinance with sufficient
18 certainty to provide reasonable criteria by which specific proposals for
19 planned development can be evaluated.

20 d. Establish, for particular uses or classes of uses, reasonable
21 standards of performance and standards for the provision of adequate
22 physical improvements including, but not limited to, off-street parking
23 and loading areas, marginal access roads and roadways, other
24 circulation facilities and water, sewerage and drainage facilities;
25 provided that section 41 of this act shall apply to such improvements.

26 e. Designate and regulate areas subject to flooding (1) pursuant to
27 P.L.1972, c.185 (C.58:16A-55 et seq.) or (2) as otherwise necessary
28 in the absence of appropriate flood hazard area designations pursuant
29 to P.L.1962, c.19 (C.58:16A-50 et seq.) or floodway regulations
30 pursuant to P.L.1972, c.185 or minimum standards for local flood
31 fringe area regulation pursuant to P.L.1972, c.185.

32 f. Provide for conditional uses pursuant to section 54 of this act.

33 g. Provide for senior citizen community housing.

34 h. Require as a condition for any approval which is required
35 pursuant to such ordinance and the provisions of this chapter, that no
36 taxes or assessments for local improvements are due or delinquent on
37 the property for which any application is made.

38 i. Provide for historic preservation pursuant to section 5 of
39 P.L.1991 c.199 (C.40:55D-65.1).

40 A zoning ordinance in a municipality that qualifies under the criteria
41 set forth in subsection a. of section 6 of P.L. , c. (C.) (now
42 before the Legislature as this bill) with respect to mandatory adoption
43 of the model local steep slope protection development regulation, shall
44 provide for the protection of steep slopes in accordance with the
45 provisions and requirements of that act.

46 (cf: P.L.1991, c.199, s.4)

1 14. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would require the State Soil Conservation Committee, and,
7 for the purposes of this bill only, a representative of the New Jersey
8 Water Supply Authority, a representative of the North Jersey District
9 Water Supply Commission, a representative of the public water utility
10 serving the city of Jersey City, a representative of the public water
11 utility serving the city of Newark, a representative of the New Jersey
12 Society of Municipal Engineers, and a representative of the State
13 Planning Commission, with the approval of the Commissioner of
14 Environmental Protection and the Secretary of Agriculture, and within
15 six months of the date of enactment of this bill, to develop and adopt:

16 (1) A model local steep slope protection development regulation for
17 the purpose of preserving and protecting steep slopes from
18 development and the consequences of development, which (a) would
19 further the Statewide policies concerning the protection of critical
20 slopes as set forth in the State Development and Redevelopment Plan
21 adopted pursuant to the "State Planning Act," P.L.1985, c.398
22 (C.52:18A-196 et seq.), and (b) may include, but not be limited to,
23 land use regulatory options such as the clustering of development in
24 areas that do not have steep slopes, impervious cover restrictions,
25 structural size and footprint limitations, and large lot zoning, for
26 consideration and adoption by a municipality; and

27 (2) Minimum standards for the regulation of disturbances of soil,
28 which standards may reflect the differing soil types, soil conditions,
29 soil erodability, topography, hydrology, geology, and vegetation types
30 of the various regions of the State.

31 The bill would require that the model local steep slope protection
32 development regulation include at least the following provisions:

33 (1) Disturbances of soil, for purpose of development, of more than
34 5,000 square feet of surface area of land on a slope exhibiting a grade
35 of 25% or greater shall be prohibited, except an applicant may apply
36 for and obtain a variance to allow a departure from this prohibition in
37 certain cases;

38 (2) Disturbances of soil, for purpose of development, of more than
39 5,000 square feet of surface area of land on a slope exhibiting a grade
40 of 10% or greater but less than 25% shall be regulated in accordance
41 with minimum standards to be developed therefor, and adopted, by the
42 State Soil Conservation Committee as expanded for the purposes of
43 this bill;

44 (3) Agricultural operations may be exempted by a municipality from
45 the requirements of the model local steep slope protection

1 development regulation that it has adopted, or may be subjected to less
2 stringent requirements as may be prescribed by that municipality;

3 (4) Reconstruction or repair of a development, located on a slope
4 with a surface area of land of more than 5,000 square feet and
5 exhibiting a grade of 10% or greater, which development existed prior
6 to adoption by a municipality of its model local steep slope protection
7 development regulation, may be undertaken notwithstanding any
8 provision of this bill or the model local steep slope protection
9 development regulation to the contrary, but only in a manner that shall
10 protect the existing slope to the maximum extent feasible, as shall be
11 determined by the planning board of the municipality on a case-by-case
12 basis after consultation with the environmental commission thereof if
13 one exists for that municipality and with the applicable soil
14 conservation district, if any, having jurisdiction in the municipality; and

15 (5) Any application for development within a municipality for which
16 preliminary site plan or preliminary subdivision approval has been
17 granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291
18 (C.40:55D-1 et seq.) prior to adoption by the municipality of the
19 model local steep slope protection development regulation shall not be
20 required to comply with the provisions of the model local steep slope
21 protection development regulation adopted by the municipality.

22 The bill provides that every municipality that is located in whole or
23 in part within a watershed that feeds in whole or in part a public water
24 supply reservoir, or that is located in whole or in part within a
25 watershed upstream of a surface water supply intake, shall, within one
26 year of adoption by the State Soil Conservation Committee, as
27 expanded by the bill, of the model local steep slope protection
28 development regulation, amend its development regulations adopted
29 pursuant to the "Municipal Land Use Law" to incorporate provisions
30 that substantially conform with, or are more stringent than, the model
31 local steep slope protection development regulation adopted by that
32 committee.

33 The State Soil Conservation Committee as expanded by the bill, in
34 consultation with the Department of Environmental Protection and the
35 Department of Agriculture, would be required to determine which
36 municipalities qualify under the criteria set forth in the bill with respect
37 to mandatory adoption of the model local steep slope protection
38 development regulation.

39 Prior to amending its development regulations, a municipality
40 would be required to submit the proposed amendments to the State
41 Soil Conservation Committee as expanded by the bill for review. That
42 committee would be required to, within 90 days of such submittal,
43 either approve, disapprove, or conditionally approve the amendments.
44 Failure of that committee to act within that 90-day period shall be
45 deemed to constitute approval of the amendments. Any subsequent
46 amendment or revision of an amendment to the development

1 regulations of a municipality that has been approved by the State Soil
2 Conservation Committee as expanded by the bill would also require
3 approval by that committee.

4 A municipality that does not qualify under the criteria set forth in
5 the bill with respect to mandatory adoption of the model local steep
6 slope protection development regulation may, at its option, amend its
7 development regulations adopted pursuant to the "Municipal Land Use
8 Law" to incorporate all or any portion of the provisions of the model
9 local steep slope protection development regulation adopted by the
10 State Soil Conservation Committee as expanded by the bill.

11 A municipality that qualifies under the criteria set forth in the bill
12 with respect to mandatory adoption of the model local steep slope
13 protection development regulation may apply to the State Soil
14 Conservation Committee as expanded by the bill for an exemption
15 from the requirements of the bill if it can demonstrate that those
16 requirements are substantially inapplicable due to the lack of slopes in
17 the municipality with a surface area of land of more than 5,000 square
18 feet and exhibiting a grade of 10% or greater.

19 State, county, and municipal entities, departments, agencies,
20 commissions, boards, and authorities, and independent entities,
21 agencies, commissions, boards, and authorities, would be required to
22 comply with any development regulation or other provision adopted
23 by a municipality pursuant to the bill.

24 Under the bill, a municipality may adopt provisions for the
25 preservation and protection of steep slopes that are more stringent
26 than those required pursuant to the bill.

27 The bill would require the State Soil Conservation Committee as
28 expanded by the bill to consult with the Pinelands Commission in
29 developing the model local steep slope protection development
30 regulation and the minimum standards for the regulation of
31 disturbances of soils, as required pursuant to the bill, as they may
32 apply for areas within the jurisdiction of the Pinelands Commission,
33 and the State Soil Conservation Committee as expanded by the bill
34 would be required to develop them in a manner necessary to effectuate
35 the purposes of the "Pinelands Protection Act" and applicable federal
36 Pinelands law. Nothing in the bill is to be construed to: (1) modify
37 the provisions of the "Pinelands Protection Act" or applicable federal
38 Pinelands law; or (2) prohibit the Pinelands Commission from adopting
39 provisions for the preservation and protection of steep slopes that are
40 more stringent than those required pursuant to the bill.

41 The bill also provides for substantial penalties for violations thereof.

42 The bill expands the State Soil Conservation Committee, for the
43 purposes of this bill only, to include the representatives from the
44 Jersey City and Newark public water utilities and the New Jersey
45 Society of Municipal Engineers. The bill also provides that
46 agricultural operations to be exempted from the requirements of the

1 model ordinance are the operations that utilize best management
2 practices. Finally the bill provides that any penalties collected pursuant
3 to the bill would be paid to the enforcing entity, which could be the
4 Department of Environmental Protection, a municipality, or a soil
5 conservation district, except those penalties recovered by the
6 Department of Environmental Protection would be remitted to the
7 State Treasury.

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12 The "Steep Slope Protection Act."
