

---

**Board of Chosen Freeholders**  
**County of Warren**  
Wayne Dumont Jr. Administration Building  
165 County Road 519S  
Belvidere, New Jersey 07823  
Phone: (908)475-6500

---

**Board of Chosen Freeholders**  
**County of Hunterdon**  
Administration Building #1  
71 Main Street  
Flemington, New Jersey 08822  
Phone: (908) 788-1102

---

**JOINT SUMMARY STATEMENT**

***Reasons for Challenge of Highlands Act***

Warren and Hunterdon Counties and their constituent municipalities have long been leaders in the preservation of open space, environmentally sensitive growth management and protection of water and other natural resources. That is an important reason why our citizens have chosen to live here.

Unfortunately, in an effort to promote these objectives, the Highlands Water Protection and Planning Act has put in place a scheme which significantly and negatively affects our area and its residents.

1. IMPACT ON PROPERTY VALUES AND TAX BASE. The Act designated a Highlands Region consisting of approximately 800,000 acres. The region is divided into a Preservation Area of approximately 398,000 acres and a Planning Area that includes the balance of the region. Real estate development in the Preservation Area is virtually prohibited. As a result, properties in the Preservation Area are substantially devalued. Many of these properties are owned by farmers, whose lives have been devoted to protecting the local environment and maintaining open space. The loss of the value of their farmland will damage the agricultural

sector of our counties' economies because banks will be less willing to lend money for seed and fertilizer if the value of their collateral is diminished.

The reduction in ratables caused by the Act increases the municipal, school district and county tax rates for everyone in the affected counties. Although the Act promises some funding to compensate for these losses, this will not be sufficient to cover the reduction in property tax revenue. There is no assurance that even these inadequate State payments will be included in future State budgets. In any event, the Act provides for their total phase-out over the sixth through 10th year of the program. The Act provides no compensation whatsoever for county government, nor does it provide funding to cover municipal and county costs for property reassessment and tax appeals.

The State has not released any economic impact study, environmental resources inventory or calculation of the potential property tax losses under the Act. The Counties are skeptical as to whether these studies were actually performed.

Even though the Act is ostensibly a State initiative to protect the drinking water of 50% of the State's residents, the burden of paying for the impact of the program was thrust almost entirely upon local landowners and local governments. An adequate dedicated funding source for public acquisition of property in the Preservation Area is needed.

2. THE ACT PROMOTES HIGH-DENSITY RESIDENTIAL DEVELOPMENT IN MUNICIPALITIES THAT DON'T WANT IT AND CAN'T SUPPORT IT. The Act has been described by its proponents as a check on runaway development. Unfortunately, it will have precisely the opposite effect in large parts of our Counties. The Act uses a Transfer of Development Rights (TDR) mechanism to channel substantially all the Highlands region's

growth from the Preservation Area into the Planning Area and to the parts of our Counties that are outside the Highlands region altogether.

The TDR concept was included in the Act without a natural resources study that would justify the denser development sought by the Act.

The Act contemplates that receiving zones will have a *minimum* density of five housing units per acre. The TDR provisions of the Act will not work unless these densities are achieved. Many of the municipalities that are designated to receive additional development are already struggling to deal with their current rate of growth. They lack the infrastructure, the schools and the local government services necessary to support increased development. Because the incentives offered to them by the Act will not begin to compensate them for their costs, their taxpayers will be forced to pick up the tab.

The TDR provisions of the Act are called voluntary. If they were truly voluntary, we would not object to them. Unfortunately, we can foresee how municipalities will be forced to accept the growth against their will. Even before the passage of the Act, municipal zoning decisions were dictated to a large extent by the Council on Affordable Housing, the State Planning Commission, the Department of Environmental Protection and other state agencies that award or withhold permits and funding based on municipal compliance with state-imposed land-use requirements. The interplay of all these coercive tools will, in practice, make the standards of the Act anything but voluntary.

Shortly after the legislature adopted the Highlands Act, it adopted the Fast Track law. This statute gives developers broad leverage to obtain expedited approvals for their development projects in the Highlands Planning Area, without giving reviewing agencies sufficient time to evaluate their impact. The environmental community, our two Freeholder Boards and a number

of legislators are incensed by the statute. As a result of the extreme negative reaction, the Governor who promoted both the Highlands Act and the Fast Track law agreed to delay the implementation of Fast Track. However, it still remains on the books. The Fast Track legislation is clearly designed to help developers move their projects forward in areas throughout the State that are designated for growth, including the Planning Area of the Highlands region, against the wishes of the affected municipalities.

3. THE ACT'S PROVISIONS GO FAR BEYOND WHAT IS NECESSARY TO PROTECT THE REGION'S DRINKING WATER. The quality and quantity of New Jersey's drinking water is protected by a host of state and federal statutes and regulations and municipal ordinances. Prior to the adoption of the Highlands Act, the State adopted stringent stormwater management regulations which insure that the surface and ground water supplies of the State are protected.

The most restrictive provisions of the Highlands Act are not necessary for the protection of New Jersey's drinking water.

4. MUNICIPALITIES AND LOCALLY ELECTED PUBLIC OFFICIALS ARE BETTER ABLE TO MAKE DECISIONS WHICH AFFECT THEIR TOWNS. New Jersey is known as a "home rule" State. What that means is that we have a strong tradition recognizing the important principle that the citizens of a community know best what is needed for that community, what their dreams and hopes are, and how to achieve them. That is the very essence of representative democracy. Local zoning decisions determine the essential character of a community and appropriately belong to the people who live there. Elections afford the residents of a municipality the opportunity to change their elected officials if they do not like what is happening to their municipalities.

The members of the Highlands Council are appointed by the Governor and are not elected by the affected communities. The Council and its staff are charged by the Act to create a Master Plan “which will control zoning regulations and ordinances.” When decisions are made by distant, unelected bureaucrats, they are often ill-conceived. Even when they make sense in theory, they often fail in practice because the decision makers are too far removed from the impact of their decisions. For example, the Act assigns enforcement powers for the Council’s actions to the DEP. Given the DEP’s current extensive responsibilities, is it reasonable to transfer zoning enforcement and permit issuance responsibilities to the DEP from local officials?

We have already seen some of the consequences of the disregard of locally elected officials and their carefully developed land-use plans. The boundaries of the Planning and Preservation Areas should have been based on environmental science but, in fact, were based on political science. Boundaries were moved to favor political contributors and well-connected developers. This is not good government.

The warning clouds of this problem arose when the legislation was introduced. Thirteen versions of the bill were presented over two months without adequate opportunity for public comment. Freeholders from Hunterdon and Warren Counties were told that they could not ask questions or were blocked from entry to certain public hearings. The legislation was rushed through – and the public was not told that the political trade off of the Fast Track bill was in the works.

The Highlands Act and the process that created it are fundamentally flawed and basically unfair. That is why the Boards of Freeholders of Warren and Hunterdon Counties are challenging it.