



A LAND DIVIDED

GANNETT NEW JERSEY PHOTO
Joe Keena of Whippany rows his boat at the Split Rock Reservoir in Rockaway. The reservoir and land surrounding it are part of the Highlands, which is the subject of a controversial preservation plan.

Highlands bill fuels statewide debate

By **COLLEEN O'DEA**
 Gannett New Jersey

Visible from the Hawkwatch platform at Wildcat Ridge in Rockaway Township, about 1,000 feet up, is a nearly unbroken vista of green and, on a clear day, a view of the New York skyline some 30 miles away.

The dense tree cover hides nearly pristine lakes, rivers and reservoirs that are the home of trout and the source of drinking water for more than half of New Jersey's population. Bobcats, eagles and other far more rare creatures are among the 30 threatened or endangered species that thrive in this section of the most densely populated state in the nation.

Protecting open space, clean water and natural habitats is what the Highlands Water Protection and Planning Act is all about.

It created such a fuss because if the legislation is enacted — and Gov. James E. McGreevey is expected to sign it soon — it would essentially end all large-scale development in a 395,000-acre chunk of Hunterdon, Somerset, Morris, Sussex, Warren, Bergen and Passaic counties. Some 145,000 acres of prime open land would remain undeveloped.

It would mark a radical departure from the current system of land use, governed by individual towns' zoning laws, in which builders are bulldozing trees and putting up huge homes on whatever vacant land they can buy all across the Highlands.

For those involved, the controversy over the bill boiled down to a clear choice: forests or houses.

At one point, builders warned that homeowners would not be able to build decks or erect pools in their backyards. One ran full-page newspaper ads warning: "New Jersey government wants to take our property rights away!"

But the forests won, both in the Legislature and in the hearts of many who live in the Highlands.

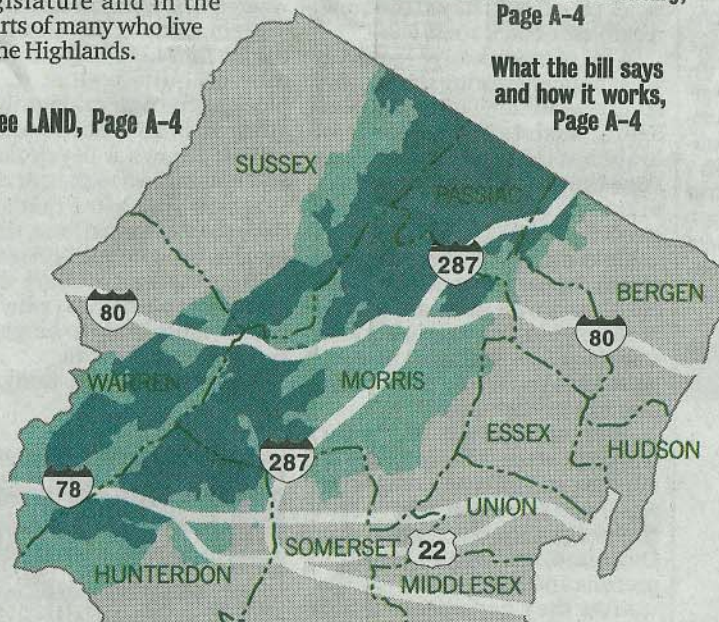
See **LAND**, Page A-4

INSIDE

Coalition sends letters urging review of proposed "fast track" development bill,
 Page A-4

Idea to preserve the Highlands has been around for a century,
 Page A-4

What the bill says and how it works,
 Page A-4



New Jersey Highlands

Preservation area: 395,000 acres
Planning area: 363,000 acres

STAFF GRAPHIC BY GARY STELZER

Land

From Page A-1

Search for answers

The legislation is very complicated and has left many questions unanswered.

Will property values rise? How will property owners and towns be compensated for land no longer considered developable — and thus less valuable as taxable property? How much will the state pay to buy land and which properties will it seek to buy first? Will those towns in the Highlands but outside the preservation area feel forced to take the development no longer allowed nearby? If not, what will happen to the value of property — and where will newcomers live — if no new homes are built in such a large chunk of the state?

No one has any good answers to those questions, in large part because the preservation system set up by the state in the legislation is unlike any system elsewhere.

"I'm not aware of anything exactly like this," said Tom Gilbert, head of the Highlands Coalition of environmental groups that worked for passage of the legislation.

New Jersey created its own preservation system because, in part, no one else seemed to have done it perfectly yet — including New Jersey's last major effort in the Pinelands in South Jersey.

It has been 25 years since the establishment of a National Reserve in the 1.1 million-acre area. The legislation preserving land there channeled growth to some communities and continues to be criticized for not providing enough funds to help the towns there cope with the changes. New Jersey's program incorporates pieces of the Pinelands, Meadowlands and Long Island Pine Barrens preservation programs.

New Jersey's Highlands are a physiographic region covering some 800,000 acres cutting across the state like a sash from the New York state border in Bergen County down to the Delaware River in Hunterdon County. Rugged ridges separated by deep, narrow valleys characterize the region. In its 2002 study, the U.S. Forest Service called the Highlands an area of "national significance" threatened by development.

That federal study showed that an average of 5,200 acres of land was developed each year between 1995 and 2000. And current zoning laws would allow the population of the region — 744,000 in 2000 — to grow by half if development were to continue unchecked.

McGreevey responded by naming a task force. Its recommendations piggybacked on the federal

report and warned of the danger more development could have on the reservoirs, located largely in North Jersey and that supply water to more than half the state's population.

The task force's suggestions were largely included in the bill co-sponsored by Sens. Bob Smith, D-Piscataway, and Robert J. Martin, R-Morris Plains, and Assemblyman John McKeon, D-South Orange.

After two months of public hearings and a number of revisions, the bill passed both houses of the Legislature and awaits McGreevey's signature.

The bill would effectively stop all major development in the preservation area. In Somerset County, the boundaries of that area appear to include Bernards, Bernardsville, Far Hills and Peapack-Gladstone. In Hunterdon County, the boundaries appear to include portions of Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton, High Bridge, Holland, Lebanon Borough, Lebanon Township, Milford, Tewksbury and Union.

For the most part, single lots of an acre or less would not be affected by the changes. Anyone owning a single home should not even notice a change — except to his home's value and possibly property taxes in the future.

But any larger development would need a special Highlands permit.

New rules

To get such a permit, these developments would have to keep a 300-foot buffer around all waters, could not cover more than 3 percent of the land with buildings and impervious ground covers, and would not be allowed to disturb most forestland. Also, development would be prohibited on slopes with a grade of 20 percent or more. And stricter rules for the diversion of water and filling land would have to be met.

A 15-member council, with members of all Highlands counties and both political parties represented, would be appointed to oversee the rules. It would also draft a regional master plan gov-

erning the preservation area and also suggesting where in that half of the Highlands designated the planning area — that land not in the preservation area — development may be appropriate. But it would be up to municipal officials whether to accept development transferred from the preservation area under a transfer of development rights program.

Farmland would be mostly unaffected, although those seeking to increase the impervious cover on their land would have to get an agricultural permit. But those farmers who might have hoped one day to sell their land likely won't be able to get the same high price per acre from a developer if the land could not be subdivided.

For the average homeowner, the biggest questions about the bill — and ones not likely to be answered soon — are what will happen to home values and property taxes in those communities with land in the preservation area?

'Home values will rise'

Jeff Tittel, head of the New Jersey Chapter of the Sierra Club, said he believes home values will rise, not drop.

"People living in the preservation area will see their homes become more valuable. They'll be living in a more desirable area," he said.

Still, there are other potential ramifications that have some officials wary.

For instance, while there are some exemptions from the building restrictions for governmental bodies and school districts, they still would be subject to many of the same regulations governing construction. The legislation states that towns or the state could make road improvements, but not do anything that would increase through traffic on it. So if widening a county road might mean more cars will use it, could the county do so? That's unclear.

"What if a town wants to buy a property for active recreation? If gravel is an impervious cover, could the town build a ball field with a parking lot covered in gravel if it covers more than 3 percent of the land?" Krich asked.

About the bill

The bill provides for the governor to appoint a Highlands Water Protection and Planning Council. It would consist of eight elected officials from Highlands' counties — five municipal and three county; no more than four from one political party — and seven other residents of the State — four must be landowners, business owners or farmers in the Highlands or residents or nonresidents who benefit from or drink water from the region.

That council would draft a master plan for the 800,000-acre region within 18 months of the bill's enactment. About half that area — including some 145,000 acres of open land — would be designated a preservation area, where development would be strictly regulated. The rest of the area would be called the planning area.

Local master plans for land in the preservation area would have to agree with the Highlands master plan. Incentives would encourage towns with land in the planning area to make their master plans agree with the Highlands plan.

There would be tough regulations on development in the preservation area. Those include: Keeping a 300-foot buffer around all bodies of water, covering no more than 3 percent of the land with buildings and impervious ground covers, leaving forests untouched, prohibiting development on slopes with a grade of 20 percent or more. And strict rules would govern the diversion of water and land fill.

The regulations would not affect existing individual homes. Such improvements as an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system would be exempt from regulation. A property owner could also build a single home or rebuild his damaged home on a lot he owns at the time of the bill's enactment.

Additionally, landowners would be able to forest wood according to an approved management plan; schools, churches and hospitals could improve their facilities; routine road maintenance would be allowed; and projects approved by voters could be built. Redevelopment would be permitted, as well.

Large projects that already have received at least one local approval and a state DEP permit would be grandfathered for three years.

Those who choose to sell their land to the state for preservation would get the greater of its value at the time of the offer or prior to the enactment of the Highlands legislation.

No town would be required to grow. But in the planning area, transfer of development rights receiving zones would be set up and such incentives as state aid would reward towns that choose to accept high-density zoning — five