
Committee Meeting

of

SENATE ENVIRONMENT COMMITTEE ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

SENATE BILL No. 1 and ASSEMBLY BILL No. 2635

(The "Highlands Water Protection and Planning Act")

SENATE RESOLUTION No. 47 and ASSEMBLY RESOLUTION No. 153

(Memorializes U.S. Senate to enact the "Highlands Stewardship Act")

LOCATION: Trenton War Memorial
Trenton, New Jersey

DATE: May 10, 2004
11:00 a.m.

MEMBERS OF COMMITTEES PRESENT:

Senator Bob Smith, Co-Chair
Assemblyman John F. McKeon, Co-Chair
Senator Stephen M. Sweeney, Co-Vice Chair
Assemblyman Michael J. Panter, Co-Vice Chair
Senator John H. Adler
Senator Andrew R. Ciesla
Senator Henry P. McNamara
Assemblyman Robert M. Gordon
Assemblyman Reed Gusciora
Assemblyman Louis M. Manzo
Assemblyman Larry Chatzidakis
Assemblyman John E. Rooney



ALSO PRESENT:

Judith L. Horowitz
Algis P. Matioska
Carrie Anne Calvo-Hahn
Lucinda Tiajoloff
*Office of Legislative Services
Committee Aides*

Kevil Duhon
*Senate Majority
Committee Aide*
David Eber
*Assembly Majority
Committee Aide*

John Hutchison
*Senate Republican
Committee Aide*
Thea M. Sheridan
*Assembly Republican
Committee Aide*

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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rs:1-34

SENATOR BOB SMITH (Co-Chair): Hello. Welcome to the weekly meeting of the Senate Environment and Assembly Environment Committee. (laughter)

We have, as everyone in this room knows, been working very hard to put together a balanced bill that protects the water supply for four-and-a-half million people. We have amendments, additional amendments that have been prepared since the last meeting of the two Committees. And we're going to describe, for the public, what those new amendments are.

Assemblyman Chairman McKeon and I have agreed that, again because we have extremely extensive amendments -- and that's thanks to all of your testimony, your letters, your faxes, your e-mails that have made this bill better and better as we progress -- that the bill will be delayed for one more week, until Monday 17 at 2:00. At that meeting, there will be a vote in both Committees.

We do think it's important, however, that the members have a chance to digest the new amendments. The new amendments went out in Friday's FedEx, they received them on Saturday. And members on both Committees are very diligent. But this is an extremely complex bill, and we did want people to have a chance to digest the full import of those amendments.

Let me turn the meeting over to Chairman McKeon.

ASSEMBLYMAN McKEON: Thank you very much, Mr. Chairman.

And I would like to publicly compliment the members of the Assembly Committee, as they spent much of last week -- and as of Friday, much of their weekend, inclusive of Mother's Day -- going through the amendments,

discussing among each other any kind of ambiguity, any kind of thought or input that they had. And my Committee is quite comfortable, today, in moving forward.

With that having been said, the Committee understands, with the breadth of the amendments and that there's so many people with the stakes so high, and the matter being so important, that we should give all, once again, the chance for input among the members of the public, the stakeholders, whomever.

This is, now, the sixth hearing that we had, five of which we took public testimony at. We had over 500 witnesses testify before us. There were over -- close to 40 hours of those hearings, as we went forward; and over and above that, literally hundreds upon hundreds of statements and other means of communicating testimony have come to us for consideration.

With all of the thoughtfulness that has gone into this legislation, to allow persons in the public to feel that they didn't get one last opportunity to take a look at all of those amendments and to give us their input, we thought, wasn't the most judicious way of acting.

But I want to make something perfectly clear. As we talked a lot about the Highlands being, in many ways, the cradle of the American Revolution, I think of a hero of the Revolutionary War, just on the other side of the Delaware River, Peter Muhlenberg. And Muhlenberg was a preacher, a Lutheran minister. And for years and years, he cajoled, did all he could to be a pacifist and indicating that there were time for words. Then, in a very famous sermon, he took off his cloak and donned a military uniform, and said, "Well, now is a time for action."

I guarantee the public, whether you're for or against this bill, that we will be -- perhaps not in this very room, but here in Trenton, whether it be the State House and maybe right here -- 2:00, a week from today, and we will vote, and the public will hear what members of this Committee -- and as I understand it, a similar commitment has been made from the Senate -- we'll stand up and be counted as to how we'll vote on this Highlands Preservation Act.

So, with that, if I'm not being presumptuous, Senator Smith--

We've also made a decision not to take public testimony today. Our view in that is that, first off, many of the things that you'll have to say will have been sated by many of the amendments before us. Secondly, we think it's more efficient for us, in the way that we move forward -- as helpful as the public testimony has been -- to take all of your comments, all of your testimony, all of your opinions in writing. And so you can make this notation: In the non-partisan Office of Legislative Services, I would ask that you either e-mail them at OLSaide -- A-I-D-E -- aen@njleg.org, or fax at 609-292-0561. And, of course, as you're all familiar with -- as we often read in the newspapers -- Senator Smith's and my office's e-mail, and telephone numbers, and faxes are hopefully well-known to most of you. And we're all, as members, available to take your input.

So, with that, Senator Smith -- again, if I'm not being presumptuous, I thought we were going to have staff discuss, with the public, the amendments.

SENATOR SMITH: Thank you, Mr. Chairman.

Ms. Horowitz, if you would, describe for the public, one by one, the amendments of the legislation.

MS. HOROWITZ (Committee Aide): In the proposed amendments, there is a metes and bounds description of the preservation area, which would be provided in the bill. Andover Borough, Andover Township, and Lafayette Township would be excluded from the Highlands Region, and Bedminster would be added to the Highlands Region. Rockaway Township, Pohatcong Township, and Bethlehem Township boundaries are changed to include additional area in the preservation area. Byram Township's center is excluded from the preservation area. Other minor changes to the boundary in Hope Township and Washington Township have been made.

The preservation area does not include town and regional centers that have been designated pursuant to the State Plan.

Any lands of a Federal military installation existing on the date of enactment, that lie within the planning area and the preservation area, are exempt from the provisions of the Act.

Any road, railroad, or railroad right-of-way that constitute part of the preservation area boundary will be considered to be outside the preservation area. Any stream, river, or brook that constitutes part of the preservation area boundary will be considered to lie within the preservation area.

The Highlands Water Protection and Planning Council would consist of 15 members. No more than four of the eight elected officials would be from the same political party. The five municipal officials would be required to be Highlands region residents. Two of the eight county residents appointed by the Governor would be residents of the county with the largest population

in the Highlands region. Two of the seven residents of the state appointed by the Governor would be recommended by the Legislature, one by the Senate President, and one by the Speaker of the General Assembly. Members of the council, to the maximum extent practicable, would have expertise, knowledge, or experience in water quality protection, natural resources protection, environmental protection, agriculture, land use, or economic development. And at least four of the members of the council would be property owners, business owners, or farmers in the Highlands region; or residents or nonresidents of the Highlands region who benefit from or consume water in the Highlands region.

Four goals have been added to the goals of the Highlands regional master plan: One, to promote a sound, balanced transportation system consistent with Smart Growth and preserving mobility in the Highlands region; to preserve recreational opportunities on publicly owned land; to promote conservation of water resources; and to promote brownfields remediation and redevelopment. The first goal for the transportation would be in the planning area, and the other three would be goals for the planning area and the preservation area.

The council would not be able to adopt the regional master plan unless it includes at least one recommended receiving zone for each municipality in the planning area, pursuant to a transfer of development rights program, authorized under the bill; or for any municipality that does not have a receiving zone, the council would provide an analysis of the reasons why it determined that the municipality has no receiving-zone capacity.

The regional master plan would be submitted to the State Planning Commission for endorsement within 60 days after the council has adopted it,

but the State Planning Commission review is to be limited to the planning area only.

In the preservation area, redevelopment would be limited to brownfields sites, and sites that are at least 70 percent covered with impervious surface.

The council would be required to ensure the regional master plan recognizes and does not compromise, in any manner, the protections for farmers afforded by the Right to Farm Act.

The plan, in addition to the elements required in the bill as introduced, would be required to include: reference to contiguous forests and woodlands; a transportation component; a component that includes an assessment of opportunities for appropriate development, redevelopment, and economic growth; and a TDR program, including consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages.

The plan would include proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights; council preparation of a land use capacity map; identification of existing developed areas capable of sustaining redevelopment activities and investment; identification of undeveloped areas outside the preservation area, that are not significantly constrained by environmental limitations and are not prime agricultural areas, that could be developed; identification of transportation, water, wastewater, power infrastructure that would support or limit development

and redevelopment outside the preservation area; and council identification of potential voluntary receiving zones for the transfer of development rights outside the preservation area; the issuance of model minimum standards for municipal and county master planning and development regulations outside the preservation area, including density standards for center-based development to encourage the adoption of such standards; identification of special critical resource areas and other critical natural resource lands where development should be limited; and the identification of areas appropriate for redevelopment; and set appropriate density standards for redevelopment.

The resource assessment prepared as part of the regional master plan would be only for advisory purposes in the planning area, and would not affect any binding or regulatory effect on the planning area.

Watershed moratorium and watershed offset aid: The watershed offset aid would be increased to \$47 per acre from the \$35, as provided in the bill as it was introduced. The provisions of the bill establishing a permanent moratorium on watershed lands would be deleted, and the existing law establishing a temporary moratorium would not be changed.

Property tax stabilization aid: The process for municipalities in the preservation area to be compensated for lost tax revenues directly attributable to this legislation would be clarified and expanded, based on the system used for property tax stabilization in the Pinelands in the 1980s. The new system would entitle municipalities to State aid payments to compensate them for the decline in taxes paid on vacant land due to successful tax appeals, reassessments, or reevaluations. The tax stabilization payments would be made to the municipalities in two annual installments for 10 years. For the first five years,

municipalities would be compensated for 100 percent of the lost revenues, and then in declining amounts until 10 percent in the tenth and final year.

The definition of *major development* has been changed to *major Highlands development*, and would be defined as: Number one, any non-residential development in the preservation area; any residential development in the preservation area that requires an environmental land use or water permit, or that results in the ultimate disturbance of one acre or more of land, or an increase in impervious surface by a quarter-acre or more. Three, any activity in the preservation area that is not a development under the MLUL, but results in the ultimate disturbance of one-quarter acre or more of forested area, or that results in an increase in impervious surface by one-quarter acre or more on a lot. Or, four, any capital or other project of a State entity or local government unit in the preservation area that requires an environmental land use or water permit, or that results in the ultimate disturbance of one acre or more of land or an increase in the impervious surface by one-quarter acre or more.

Exemptions: In the new Section 28, the following would be exempt from the definition of major Highlands development and from the provisions of the bill: Single-family homes; construction of a single-family dwelling on a lot owned by the individual on the date of enactment for his own use or the use of a family member would be exempt from the act. Also, the construction of a single-family dwelling on a lot in existence on the date of enactment would be exempt from the act if the construction does not result in the ultimate disturbance of one acre or more of land or an increase in impervious surface by one-quarter acre or more. Any improvement to a single-family home existing on

the date of enactment would be exempt from the act, including the addition of a garage, shed, driveway, porch, deck, patio, swimming pool, or septic system.

Reconstruction: The owner of any building or structure -- whether residential, commercial, or industrial -- would be entitled to reconstruct the building or structure for any reason within the same footprint as the original structure and the impervious surfaces. This exemption does not apply to the reconstruction of an agricultural building for nonagricultural purposes.

Schools, places of worship, and hospitals: Any nonresidential improvement to a public or private school; or place of worship owned by a nonprofit corporation, society, or association organized primarily for religious purposes; or a hospital in existence on the date of enactment would be exempt.

Forestry: Any activity conducted in accordance with the woodland management plan would be exempt from the act.

Trails: The construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where an easement has been established will be exempt.

Routine maintenance projects: State, county, and municipal transportation and infrastructure system projects involving routine maintenance, or rehabilitation, or reconstruction of existing infrastructure would be exempt from the act. Routine maintenance, reconstruction, repair, or upgrades by public utilities would be exempt from DEP Highlands approval or permitting review.

Projects approved by the voters: Construction of a public infrastructure project or capital project approved by public referendum prior to January 1, 2005, would be exempt.

Quarries: Mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring, or which are permitted to occur, on any mine, mine site, or construction materials facility existing on the date of enactment would be exempt.

Transportation: Safety projects, bicycle and pedestrian facilities would be exempt from the act as long as no additional through-capacity travel lanes are added.

Military activity and development would be exempt from the act.

The remediation of a contaminated site would be exempt from the act.

The grandfather provision is provided as an exemption in Section 28 of the amendments. Any major Highlands development would be exempt from the provisions of the bill if, on or before March 29, 2004, it received one of the following approvals: preliminary or final site plan approval, final municipal building or construction permit, minor subdivision approval where no subsequent site plan approval is required, final subdivision approval where no subsequent site plan approval is required, or preliminary subdivision approval where no subsequent site plan approval is required; and at least one of the following permits from DEP is applicable: One, a permit or certification pursuant to the Water Supply Management Act; a water extension permit or other approval or authorization pursuant to the Safe Drinking Water Act; a certificate or other approval issued pursuant to The Realty Improvement Sewerage and Facilities Act; or a treatment works approval pursuant to the Water Pollution Control Act.

If the development does not require one of the above DEP permits, then it would be required to have either a wetlands permit or a stream encroachment permit, if required under the existing law. Finally, construction beyond site preparation must begin within three years after the date of enactment.

Transfer of development rights: The council would establish a transfer of development rights program, authorized under the bill as amended, consistent with the recently enacted State Transfer of Development Rights Act, except for the following: The council would perform the real estate analysis for the Highlands region that is required to be performed by a municipality prior to the adoption or amendment of any development transfer ordinance under the State act.

No later than 18 months after the date of enactment, the council would be required to identify areas within the preservation area that are appropriate as sending zones; identify areas outside the preservation area, either in the planning area or in adjacent counties, that are appropriate for development as voluntary receiving zones.

The first time the council prepares a regional master plan and establishes the TDR program, it would consider any supporting information in the regional master plan, but is not required to wait to create the TDR program until the first regional master plan has been prepared.

The council would work with municipalities and the State Planning Commission to identify centers as voluntary receiving zones for the TDR program.

The council would be required to assist municipalities and counties in analyzing receiving zone capacity, work with municipalities outside the preservation area to develop ordinances, establish advisory or model ordinance.

The council would set the initial value of a development right, considering pre-preservation area regulations.

And they may use the State Development Rights Bank or establish its own TDR bank.

Any municipality that amends its development regulations to accommodate voluntary receiving zones that provide for a minimum density of five dwelling units per acre would be eligible for an enhanced planning grant of up to \$250,000 from the council; be eligible for a grant for the cost of amending their development regulations; be authorized to impose impact fees at a rate of \$24,000 per dwelling unit unless and until impact fees are otherwise established by law, at which time the impact fee would be 200 percent of the calculated impact fee; would be entitled to legal representation as provided under this bill; it would be accorded priority status for any State capital improvements or infrastructure programs; and it would be eligible for other additional assistance or incentives.

Agriculture: Agricultural development and agricultural activity are excluded from the definition of Highlands major development, and would not be subject to the Highlands approval and permit review program established in the bill. Instead, agricultural development in the preservation area that would increase impervious cover would be subject to review by the local soil conservation district. If the development would increase impervious cover by 3 percent or more of the total land area of the farm management unit, the owner

would be required to submit a farm conservation plan to the local soil conservation district. If the development would increase impervious cover by more than 9 percent, a more detailed plan would be required to be submitted to the district and the DEP. The Department of Agriculture, in consultation with the DEP, would adopt rules and regulations establishing scientific standards to guide the preparation and implementation of the plans and -- the farm conservation plans and the resource management system plans prepared by the farmers. The amendments would also direct the council to work with the farmers to reduce the use of impervious cover in farming operations.

There are several water conservation provisions in the bill.

Within 60 days of adopting the master plan, the council would submit the plan to the State Planning Commission for endorsement. The Commission review would be limited to the planning area.

The amendments would exempt any municipality or county, or portion thereof, in the preservation area from State plan endorsement process. The amendments provide that the amount spent by the State for open space and farmland, in the fiscal years 2005 to 2009, in the southern counties would be at least as much as the average annual amount spent for those counties in the years between 2000 and 2004.

Vested rights: The legislation that had allowed for the negation of preliminary and final Municipal Land Use Law approvals that were inconsistent with the Highlands regional master plan-- This provision has been removed from the legislation. Those approvals would be subject to the provisions of the existing State MLUL and the rights and recourse provided under that law.

There is no provision for establishing the State's right of first refusal under the the legislation.

The council, instead of the Attorney General, would provide legal representation to a local government unit pursuant to the provisions of Section 20.

Municipalities would have more time and assistance to submit the revisions to their master plans to the council. The cost of making the revisions would be reimbursable by the council. And additional aid and incentives have been provided to municipalities in connection with the TDR program.

The council would be required to process any reviews of State, county, or municipal capital projects within 30 days of their submission.

There are three changes to the DEP penalty provision in the bill. Two amendments would provide for a special appraisal process for 10 years from the date of enactment. Two appraisals would be authorized, one based on land use zoning and environmental regulations in effect on January 1, and the second based on the land use zoning and DEP rules adopted pursuant to the bill.

SENATOR SMITH: As you can see, the extent of the amendments are very significant. And to a large degree, they reflect the testimony that you gave us during the public hearings, and the many letters, e-mails, faxes that you've sent to us.

When I look at those amendments, some of the things -- that depends on how closely you were listening--

But we have fleshed out the TDR program. We, I think, have put in very significant growth incentives for the planning area that are not

mandatory, they're consensual. But they're extremely significant and should, I think, allay some of the concerns that were expressed in the testimony.

The agricultural amendments have been fleshed out. At our last hearing, you'll remember, we had a narrative of the agricultural amendments. We now have them actually fleshed out in the appropriate language. Those amendments have been reviewed both by the Secretary of Agriculture's office and the Farm Bureau and, as we understand it, are acceptable to them.

We've made amendments -- I think significant amendments -- that reflect the testimony. For example, we received a number of comments from foresters about the fact that we had not properly taken into account forestry. And I believe we've now done that in the appropriate way.

Picatinny Arsenal is removed from the bill. And that is due to a number of reasons: one being that a good portion of it is not in the preservation area. It is a Federal facility. And a number of very valid public policy questions were expressed with regard to it being in the preservation area. And we felt we could do that without harm to the environment.

We've provided for, I think, very common-sense amendments like allowing hiking trails to not be covered by the act, for brownfields remediation. There have been a number of communications about not having a water conservation component in the bill. That, now, is in there, where there are very, I think, very smart incentives for water conservation.

So, all in all, I think the changes have been extremely good changes.

The most controversial item in this -- Mr. Chairman, I think you'll agree -- is the grandfathering provision. And I'd like to just point out where we were, and where we've been, and where we've come to. We started with

grandfathering that said you must have all of your local approvals -- preliminary, final, and all of your State permits.

Chairman McKeon and the members of both Committees have been trying to find the appropriate balance for this, because, remember, the bill is about preservation in the preservation area. And we believe that the appropriate line has been drawn. And that is, that if you have a preliminary local approval and one of four State permits -- that is water line extension, water allocation, sewer line extension, or State septic permit -- that if you have any one of those, that should be grandfathered with your ability to build the project within three years. Use it or lose it. It also has no limitation going back in time. So if you received your preliminary approval and State permit five years ago, you're fine -- or six years ago, or three years ago.

With regard to those projects that don't need septic permits -- which are 49 units or less -- the requirement is that if you needed either a wetlands or a stream encroachment, take one of the two -- which is, we believe, reasonable-- And, of course, if you didn't need either of those, then you're grandfathered. So we think we've drawn the right line.

But we are, Mr. Chairman, as I understand it, accepting cards and letters for one more week, just to make sure we really have done the right job. And we're hopeful that we're going to have everyone's support on this.

Mr. Chairman, we agreed we're going to give our members a chance to react to the amendments. I believe the Assembly is going to take the first crack at it, then we'll go to the Senate.

ASSEMBLYMAN McKEON: Thank you, Mr. Chairman. And I'll defer my comments, particularly on the grandfather clause and those amendments, until my members have a chance to speak.

Assemblyman Rooney, the longest-standing member of our State Legislature of the House of the People.

ASSEMBLYMAN ROONEY: Thank you, Mr. Chairman. I appreciate the opportunity to speak on the bill.

As everyone knows, we only got the bill late on Friday, and I was away for most of the weekend. So I hadn't really had an opportunity to look at it. But listening to the description, I'm very pleased that many of the concerns of the people out there have been, basically, put back in the bill.

Having said that, I still have a problem with the funding. We need a stable source of funding for this. We need to be able to acquire the lands, to acquire those lands at fair market value. I believe there's issues that still are unresolved from the Pinelands. And there's lands down there have not been acquired that are still outstanding.

I have requested a bill be put in to deal with those issues -- a constitutionally dedicated tax to help that. And until we really tie that together, I still have a problem with the bill. And as I said at the last meeting, I really should be voting for this.

Number one, the buffer bills are -- basically, I've had those buffer bills in for 10 years or more. The steep slopes bill -- same exact length of time. One of the things I would have liked to have seen in there is the right of first refusal for either municipalities, or counties, or the State to acquire the lands that become available. Again, I have a bill in; I've had it in for many, many

years. We should get that opportunity to take that land, again, at fair market value -- be able to be at least noticed when these lands become available.

We do need to preserve more land in New Jersey. We have a major problem with not only the watersheds but also other lands for recreational purposes. We are the most densely populated state in the union, bar none. The more density, the more pollution we get. We are the most polluted state in the nation. And the two go together. So what we need to do is preserve this land. And I will be looking forward to seeing additional amendments and additional bills on the actual funding to acquire those lands.

Thank you, Mr. Chairman.

ASSEMBLYMAN McKEON: Thank you, Assemblyman.

In a bipartisan spirit, if you have to present to us, you know we'll take them under advisement. And we appreciate your wisdom in this process.

Assemblyman Chatzidakis.

ASSEMBLYMAN CHATZIDAKIS: Yes, thank you, Mr. Chairman.

Good afternoon to everyone coming here.

The fact that we've had probably twice as many amended pages as the original bill shows that this bill still is a work in progress. It's important that we do get all the input of all the people who will be affected by this, because something as monumental as this, obviously, will reverberate through the entire state for future generations.

Looking at the Pine Barrens and the Pinelands for the last 25 years, the fact that we still discuss issues here shows that that was very shortsighted, in many cases. And it's important that this legislation not make those same

mistakes and, hopefully, corrects some of the past mistakes of the people who have really lost a lot of equity over the last 20-25 years.

I commend the Chairmen and the people for continuing to work on this. As you can see, there have been many changes made since the first hearings. And hopefully we will continue to make changes.

I think it's more important to do this legislation properly and equitably rather than to rush it. So far, the input of the public has been important to make this a better piece of legislation. And I hope we can continue this process to make this the best equitable for all the parties involved.

And if I may ask a question of the Chairman, will public testimony be available next Monday when we meet again?

ASSEMBLYMAN McKEON: I will defer to Chairman Smith, but my prerogative is not to take any more public testimony at the next meeting. That will come to us by way of written testimony. That's an easier way to deliberate, in my view.

SENATOR SMITH: I think that's also correct on the Senate side. We've really, I think, tried to get as much input as possible, and we're still willing to consider input. But I think we're at that point where the bill is very close to being right.

ASSEMBLYMAN McKEON: Thank you, Assemblyman Chatzidakis. And, similarly, any input that you have -- as you have had through the process -- we will certainly consider, and I look forward to that continued work.

Assemblyman Manzo.

ASSEMBLYMAN MANZO: Thank you, Mr. Chairman. I also want to thank you and the Senator for continuing to -- having made amendments throughout this process, especially when it came in line with the homeowners, builders, and the farmers on certain issues that were outstanding.

At this juncture, I think we've -- with these last pages of amendments -- relatively are coming to the close of what this bill should -- either be put forth to be voted on, one way or the other.

The issue, I think as I explained the last time, comes down to: conservation bills come with sacrifice, and people must realize that. And, ultimately, as we've weaned this bill down, I don't think either side is going to be too happy when we put it out. But mainly, the most important part of a conservation bill is conservation.

And having said that, let me just bring up another issue, Mr. Chair.

This bill is far too important an issue to the future of our state and our children to be subjected to the typical type of horse trading that sometimes goes on with important Trenton legislation. The stakes are much too high here, and people should recognize it.

And having taken a position of committing to put party -- or put people ahead of party, let me state something as emphatically as I can. If there is any attempt by any party to barter this vital legislation for leverage on other considerations, it is unconscionable, and I will expose it. This is a bill that requires conscience, and conscience is that great equalizer that makes us all do the right thing at the end of the day, when the public is not around or looking.

I just hope that we're ready to put this forth for a vote the next time we come. Let the issues speak about concerns in the bill, and let's move on with this process. (applause)

ASSEMBLYMAN McKEON: Thank you, thank you for those words.

I appreciate if the public -- you've been so good and patient in being here from 8:00 this morning -- could you please hold your applause. We appreciate your emotion, and we thank you not to do so.

Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Thank you, Mr. Chair.

I was proud to take part in this effort. We spent countless hours delving into this issue. We had hearings in Ringwood, and Lebanon, and Morristown, and Trenton. And we've heard hundreds, if not thousands -- at least a few thousand testimonies -- certainly written, e-mails. And I think the amendments speak for themselves that we have taken all of the input very seriously and hope to have accommodated most of everyone's concerns.

I agree with Lou that it may or may not be a perfect bill, but certainly it's one that we've taken in -- all sides. And hopefully this will be a benefit for future New Jerseyans to enjoy and for future generations to come.

I would have liked to have seen action taken today. I think we have incorporated everything. But, nonetheless, I'm willing to wait the week to digest any other comments. And if we have to tweak it a little bit, that would be fine. But I think this is an important measure, and it's important for all New Jerseyans and for many generations to come.

Thank you, Mr. Chair.

ASSEMBLYMAN McKEON: Thank you, Assemblyman.
Assemblyman Gordon.

ASSEMBLYMAN GORDON: Thank you, Mr. Chairman. Thank you and Senator Smith for your leadership on this issue.

And I want to thank all of you for your input. I've received probably hundreds, if not thousands, of e-mails and letters. I've made an attempt to read them all. And I think if I can summarize all the comments in one sentence-- And I think it really comes down to whether we are prepared to make some tough decisions today to avoid having to spend billions of tax dollars in the future to clean our water.

I know, just based on my own experience as a mayor of a town, that that cleanup can be very costly. I was elected to my town council after the wells in Fairlawn became polluted. And we had to spend millions of dollars, of tax dollars, to clean our wells and to put our water system back where it should be. So, when I hear a potential cost of \$30 billion over the next 25 years to build new water systems if we don't protect our water today, that rings true.

Now, like a lot of difficult policy issues, there are trade-offs and competing goals. On the one hand, we want to promote a vibrant economy and economic growth in the Highlands communities. On the other hand, we want to protect our water.

Clearly, as in most policy issues, what we need to do is strike a balance. And over these many weeks, we have been taking input from all of you and making amendments. And I believe we are at the point where we have struck that reasonable balance. The bill may need some more tweaking, but I think we're there.

I'm disappointed that we're not voting today. But to do this right, I'm prepared to wait another week to make some improvements if they're needed.

Again, I want to thank you for your participation in this process from the very beginning.

Thank you, Mr. Chairman.

ASSEMBLYMAN McKEON: Thank you very much, Assemblyman Gordon.

Assemblyman Panter.

ASSEMBLYMAN PANTER: Thank you, Mr. Chairman.

I'd also like to commend not only members of this Committee, but the public especially, which has been there with us at every turn. And the fact that we've had 500 witnesses, and probably could have had many more on those evenings, is indicative of how important an issue this is, and how invested everyone in the public has been in this process, be they supportive or be they -- have concerns about Highlands legislation.

I entered this process with a very definitive feeling that the precious resources of New Jersey should have been the subject of definitive State action a long time ago. And it's not a very easy thing to accomplish, because we've heard very good and very convincing testimony during these past weeks and months from persons who live in the Highlands region -- that we really need to be careful that the families and businesses, the communities, and local governments within the Highlands are not unduly burdened by this legislation or that it has unintended consequences in ways that we did not envision as a Committee.

I think that our amendments, as has been said by several of my colleagues, have gone far to address many of those issues. I'll say one thing which is only slightly off topic -- but I also wish that we had been voting on this legislation today.

I can tell you that as a first-term member of the Legislature -- and in that sense, I think I have somewhat of a unique perspective, because I was a citizen up until 90 or 100 days ago, and not a politician, so to speak -- is that it is disconcerting, at times, the way the business is done in Trenton, because there are many people who roam these halls. And it's not a question of whether they're Democrats or Republicans. But they look to see who sponsors the bill, and whether there's a D or R after their name, and then they make a conclusion on that basis whether to support the legislation, before getting into the substance of the policy and whether the policy makes sense for us as taxpayers. That's not the way business should be done. That's not why we send people to Trenton, on our behalf, to represent our interests.

I also think -- just to reflect on what Assemblyman Manzo said-- I feel that, on important pieces of legislation in Trenton, often folks -- again in both parties -- view the importance of that legislation. They view that as an opportunity to use it for leverage to accomplish political objectives outside the parameters of the legislation itself. That is equally wrong to the partisanship. It stands in the way of good public policy and the need for reform.

We should be voting today. If we were voting today, I could tell you that I would be voting to release this from Committee so that the full body of the Legislature would have the opportunity to consider this. There are a number of legislators within and outside the Highlands who have not been able

to voice -- play an active role in this debate, as they would if this came before the full Assembly and Senate.

So I look forward to voting next week. I understand the need to further digest these amendments, and I think we'll all take very valuable use of that time.

But I thank you for your time in coming here today. I think, to a certain extent, we should apologize that we're not voting, which is why we're all here. But we will be doing that next week, and we will be doing that, hopefully, in a much more informed fashion, as we've been able to digest the amendments a little bit further.

Thank you.

ASSEMBLYMAN McKEON: Thank you, Vice Chairman Panter.

And I'd like to publicly apologize to you, Mike.

Yesterday, when the Assemblyman and I were speaking, he heard me raise my voice. And he thought I was being a bit heavy-handed, but then realized that it was my middle daughter just scoring a goal that I was screaming about. (laughter)

With that, I would just --- overall, would like to again thank both partisan staff, our own individual staffs, and particularly the Office of Legislative Services for the hundreds and hundreds of hours they've put in. As you can appreciate in just hearing the synopsis -- as that equates to over a hundred pages of written potential statute -- the work that they did was no less than heroic on the level that they serve, and I very much appreciate that.

With respect to the substance of the amendments, I tell you that I, too, as Chairman, am ready to vote and proceed with this bill. I heard a word

that's not Latin or proper grammar, perhaps, but, I think, best off puts my ability to at least keep an open mind for the time being, and that was the word *tweak*. Perhaps there are some minimal changes that are substantive, are some cleanup, that at this juncture I would consider, particularly as it relates to the grandfather clause. I think we were temperate, I think we were fair, and I think we've taken the bill to the point that to take it any further, relative to tempering what is the primary focus, would then get to the point of eviscerating what we're attempting to do -- and that is, of course, preserve a precious drinking source.

I'm going to pick on Mike again, because the same speech that he had made, relative to sometimes down here -- how things get partisan for no reason but for the fact there's a R or a D after a particular bill. And I was kidding him, and I said, "Boy, they call me Opie. You're right there with me." But when it comes down to it, this particular bill, this particular issue is just too important for any of us -- whether we come from the perspective of being partisans; whether we come from the perspective of living in the northern most region of the state, or Cape May, or anywhere in between; whether or not we're a builder; whether or not we're an environmentalist -- this is about the entire state and our ability to thrive into the years to come.

And with that, as I stated before, this Committee will be here a week from today, and we will vote -- and hopefully in a positive way -- to move the legislative process forward as we enact this historic regulation.

Now, Mr. Chairman, if I can ask your indulgence, and that of your Committee, just for another moment. There is a second item on our agenda today that's a related item, and that is -- again in the bipartisan spirit that we should be moving forward -- a Senate bill sponsored -- or a Federal bill

sponsored by Assembly. I'll get it right eventually -- a congressional act that's co-sponsored by Representative Frelinghuysen, and co-sponsored by Senator Corzine. And that is with respect to actually defining the Highlands region over a multi-state area, and earmarking \$25 million a year on a going-forward basis for the next 10 years or so to provide resources for Highlands preservation.

I would like my Committee -- if I hear a motion to do so in a second -- to approve our concurrence with that particular congressional action, for consideration of the people's House, in ratifying what Congressman Frelinghuysen and Senator Corzine are doing.

I'll accept a motion.

ASSEMBLYMAN GORDON: So moved.

ASSEMBLYMAN MANZO: Mr. Chair.

ASSEMBLYMAN McKEON: Moved and seconded.

Can we call the roll, please?

MS. CALVO-HAHN (Committee Aide): On the motion to release AR-153, with the proposed technical Committee amendment, Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Yes.

MS. CALVO-HAHN: Assemblyman Chatzidakis.

ASSEMBLYMAN CHATZIDAKIS: Yes.

MS. CALVO-HAHN: Assemblyman Manzo.

ASSEMBLYMAN MANZO: Yes.

MS. CALVO-HAHN: Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Yes.

MS. CALVO-HAHN: Assemblyman Gordon.

ASSEMBLYMAN GORDON: Yes.

MS. CALVO-HAHN: Vice Chairman Panter.

ASSEMBLYMAN PANTER: Yes.

MS. CALVO-HAHN: Chairman McKeon.

ASSEMBLYMAN McKEON: Yes.

And finally, Mr. Chairman, as I turn to you and the Senate, thank you, again, for your -- for the manner in which you've worked so diligently on all of this. And I note that many members of my Committee have other governmental responsibilities to proceed to, and several may be absenting themselves, but we appreciate this unprecedented cooperation between our two houses as we proceed.

SENATOR SMITH: Just give us 60 seconds for a moment.

(RECESS)

AFTER RECESS:

SENATOR SMITH: All right, we're back.

Why don't we start with-- Our hope is to do the same thing. We'll have comments from the Senators on the amendments, and then we're going to, hopefully, do the resolution.

Let me start on the far end with our co-prime sponsor of the legislation, Senator Bob Martin.

SENATOR ROBERT J. MARTIN: I'm not sure I can add anything other than the fact that I do think the bill is a better bill than when it

was introduced. I think the amendments have gone a long way to make it better. I especially thank the Committee for acting on a request that Congressman Frelinghuysen made, just the end of last week, to ensure that--

UNIDENTIFIED SPEAKERS FROM AUDIENCE: We can't hear you.

SENATOR MARTIN: --to ensure that Picatinny Arsenal can be continued to be maintained and redeveloped in the future. That's an important area of growth and concern for the area. So I look forward to seeing what else may be recommended between now and next week. And I would hope that action could be taken at that time.

Thank you.

SENATOR SMITH: Senator Ciesla.

SENATOR CIESLA: Thank you, Mr. Chairman.

I don't think there's a lot that I can add at this point. I certainly commend you for working diligently to pursue this particular matter. I know we've talked about balance today, and I think it's important that we continue to work towards the resolution of a bill that can be as balanced as we can make it, in order to ensure that we don't, inadvertently, create any negative impacts for the State of New Jersey.

I know that preservation and water quality are of the utmost importance. It's my firm belief that this bill, while purporting to address water quality, exclusively goes far beyond that. And I do continue to have concerns that it's going to negatively impact the State of New Jersey economically, as a whole. I'm extremely concerned about the costs to the State of New Jersey, and to the actual State and its programs. And I'm hopeful that, during this next

week, we'll be continuing to refine issues to balance it so that we not only have preservation, but we have growth opportunities to keep New Jersey strong; and that we also preserve, in some fashion, the hard work that many of our citizens have had in making New Jersey a better place to live and work, by continuing to refine some of the language with respect to the grandfather provisions.

But I do wish to commend you, Mr. Chairmen, for the work that you've put in this bill. Certainly, it will move forward, at some point. I'm hoping it will be the best that we can make it.

Thank you.

SENATOR SMITH: Senator McNamara.

SENATOR McNAMARA: Basically, ditto, Senator. And I do want to thank you, too, for listening and making some of the changes. And I think we're a lot closer than where we were before, but I don't think we're at the goal line, yet.

I thank you very much, and I do thank you for your efforts.

SENATOR SMITH: Senator Sweeney.

SENATOR SWEENEY: Thank you, Chairman Smith, both Chairmen for your patience in working through this bill. Believe me, I know patience, because we've been working for quite some time on this bill.

I've said this before. This is probably one of the most important pieces of legislation I'm ever going to have to decide on in my lifetime. But I am not going to apologize for standing up for what I believe is right and fair. It is not wrong to remind people what happened in the Pinelands, and the flaws, and the problems. From that, we've made this bill better, because the sponsors were willing to listen and make amendments.

We are over a hundred pages of amendments since this bill was introduced, and we're close, and we're getting closer. And there are some more things that we're still intending to talk about. But when I hear other members on this panel say that they have issues with us in the South, possibly, arguing the issue, I'm not going to apologize for reminding people that there was a great unfairness that happened back in the '70s that we still deal with in the South. We want this bill to be the best it possibly could be, and the fairest that it can possibly be to everyone involved. It's a very, very important issue.

And, again, I can't thank the sponsors enough, because they have been listening, and we are working. We are moving forward.

For the environmental community, I have always done what I thought was right for the environmental community, from standing up to the Delaware River deepening project, against union brothers and sisters. I did it, and I did it with a clear conscience.

What we're doing here today is making this bill work. We would have hurt farmers who we try to protect. We would have harmed quite a few different people, different groups, if this bill had gone through as it was originally proposed.

So, again, I really do appreciate the fact that the people up here are listening, they're willing to adjust this bill so that it will work, and that fairness exists once this bill is passed into law.

And, again, thank you very much to both Chairs, because we will have a good bill when we're done. We're very close.

Thank you.

SENATOR SMITH: Thank you, Senator.

I'm not going to repeat too many of the comments made by all of the parties. Everybody's worked in good faith to put together a Highlands preservation package that will protect that water supply.

But I will say we've had a great deal of help -- at least on the Senate side, and I know Chairman McKeon has had much help on the Assembly side. But Senator Martin, Senator Littell -- who's not on the Committee, but who hasn't been afraid to forward his ideas in-- Senator McNamara's given us a number of terrific ideas. Senator Sweeney has had a number of amendments to the bill that, I think, make it a better bill.

Everybody's working hard to get the job done, and I think everybody is thinking long-term, not short-term. We all want this to be a state -- in 30, or 40, or 50 years from now -- that has a clean and adequate water supply. And I commend all of the parties, both on the Assembly and Senate side, for working together to do that.

I think if you look at today's amendments, you'll see that there's been a tremendous emphasis on the growth side. We received a lot of, I think, somewhat valid criticism that we did not have a balanced bill. We have now worked on the growth side tremendously. And I think if those opponents who had that as a particular issue will look at those amendments, they'll see that there is a balanced approach to growth, especially in the planning area.

So much for the criticism that the bill was being rushed through. Will those people who thought it was being rushed through please raise your hands? I mean, that, obviously, is not happening. (laughter) We have worked hard. That's the great thing about this country. We don't always have to agree. But I hope even the opponents of the bill will believe that we are making a

good-faith effort to address everyone's concerns, no matter where you stand on the bill.

And I am still confident and persuaded that, at the end of this process, we're going to have bipartisan support for the legislation.

That being said, we can accomplish a little bit today. We have our Senate -- we have a different number. What is our number?

MS. HOROWITZ: SR-47.

SENATOR SMITH: If you would, Judy, just read it into the record.

MS. HOROWITZ: We have Senate Resolution Number 47, which memorializes the United States Senate to enact the Highlands Stewardship Act to protect the Highlands region of New Jersey, Connecticut, New York, and Pennsylvania.

SENATOR SMITH: Can I have a motion to release?

SENATOR McNAMARA: So moved.

SENATOR SWEENEY: Second.

SENATOR SMITH: Would you take a vote, please?

MS. HOROWITZ: On Senate Resolution 47, Senator McNamara.

SENATOR McNAMARA: Yes.

MS. HOROWITZ: Senator Ciesla.

SENATOR CIESLA: Yes.

MS. HOROWITZ: Senator Sweeney.

SENATOR SWEENEY: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes.

See you next Monday, 2:00.

(MEETING CONCLUDED)