

Despite rulings, Highlands Act still in danger

6:11 AM, Aug. 22, 2011

Backers of New Jersey's landmark Highlands Act were heartened last week by a collection of state Appellate Court rulings that affirmed the constitutionality of the water protection law and served notice to those who continue to insist it is an unlawful land grab.

On Monday, a state appeals court upheld the Highlands Council's power to establish development plans that protect the region's water supply.

Advocates of New Jersey's Highlands Law said the rulings in four cases — centered on challenges against the Highlands Regional Master Plan and transfer-of-development-rights program — were reason to celebrate.

“It's telling those people that claim the Highlands Act is unconstitutional that in the courts you can claim what you might, but you don't have legal standing,” said Elliott Ruga, senior policy analyst for the New Jersey Highlands Coalition. “It's the seventh legal challenge to the Highlands Act; each challenge the act has been upheld.”

But expect the celebration to be short-lived.

The Highlands Act, which recently celebrated its seventh anniversary, is in danger from the same state government that created it in 2004.

Highlands Act supporters say that Gov. Chris Christie has targeted the law for extinction, with plans to overturn the very provisions that give it its strength.

Christie's critics say he has stacked the Highlands Council with appointees who disapprove of the law, and that Christie hopes to delay implementation of the law while he works toward a Republican majority in the Legislature that eventually will overturn it.

There may be some evidence that they're right: In the first meeting of the Highlands Council since Christie's controversial appointees — including Hunterdon County Freeholder Rob Walton and Roxbury Mayor and newly appointed Highlands Council Chair Jim Rilee — took over, the council blocked Hackettstown from opting into the Highlands planning program. Highlands watchers say it's the first time any community was turned down in an attempt to buy into the Highlands Act's protections.

The 860,000-acre Highlands region cuts a wide swath across northwestern New Jersey, including much of Morris, Sussex and Warren counties, as well as parts of Hunterdon and Passaic. The

region provides drinking water to 5.4 million people in New Jersey, as far south as Monmouth County. The goal of the law was to limit development in the region that is the source of clean, fresh drinking water for so many people and businesses.

The bulk of the criticism of the law centers around those land use restrictions — primarily from landowners who say they were robbed of millions of dollars in property value when they lost the right to develop their property. But their argument that the state transfer-of-development-rights program, which compensates landowners for any lost value, doesn't pay enough to make up the difference, was among those struck down by the courts last week.

The Appellate Court rulings are indeed cause for confidence in the Highlands Act, upholding the belief that the process that created the historic environmental protections were arrived at justly.

But there would be danger in feeling too comfortable. Christie has made it known that he is a foe of the law and, if Republicans are successful in winning control of the Legislature in the next elections, he will have the means to undo the progress altogether.

The Highlands Act is good environmental policy, good public policy. It is a rare example of thoughtful, proactive lawmaking. It should itself be preserved and protected.

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