

ASSEMBLY, No. 3612

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED APRIL 7, 2016

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

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District 6 (Burlington and Camden)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Co-Sponsored by:

Assemblywoman Jones

SYNOPSIS

Requires counties to design and construct inclusive playgrounds to receive State funding for recreational and conservation purposes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/7/2016)

1 AN ACT concerning inclusive playgrounds, amending P.L.1999,
2 c.50, and supplementing P.L.1999, c.152 (C.13:8C-1 et seq.) and
3 chapter 12 of Title 40 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 2 of P.L.1999, c.50 (C.52:27D-123.10) is amended to
9 read as follows:

10 2. a. The Department of Community Affairs in consultation
11 with the Department of Education shall promulgate rules and
12 regulations for the design, installation, inspection and maintenance
13 regarding all playgrounds operated by any governmental entity,
14 nonprofit entity or private entity. Those regulations shall meet any
15 standard of care imposed by law on playground operators, and shall
16 be those guidelines and criteria which are contained in the
17 Handbook for Public Playground Safety produced by the United
18 States Consumer Products Safety Commission or any successor.
19 The rules and regulations shall include special provisions for
20 playgrounds appropriate for children within the range of ages in day
21 care settings.

22 The rules and regulations shall also include provisions for
23 inclusive playgrounds designed with standards that generally
24 exceed those required by the "Americans with Disabilities Act of
25 1990" (42 U.S.C. s.12101 et seq.) and result in allowing the
26 inclusion of people with disabilities, including children and adults,
27 to the greatest degree feasible. The rules and regulations shall
28 require park and playground areas that enable every visitor,
29 regardless of medical condition, with the chance to engage in the
30 park and playground experience to the best of the visitor's ability.

31 b. Within 90 days of the effective date of P.L. , c. (C.)
32 (pending before the Legislature as this bill), and prior to proposing
33 a rule in the New Jersey Register, the Commissioner of Community
34 Affairs shall invite and receive recommendations regarding the
35 adoption of rules and regulations making playgrounds available to
36 persons of all ages and abilities from nonprofit organizations with a
37 demonstrated expertise in the design and construction of inclusive
38 playgrounds or with a demonstrated expertise in the promulgation
39 and implementation of accessibility standards. The rules and
40 regulations shall be proposed within 180 days of the effective date
41 of P.L. , c. (C.) (pending before the Legislature as this bill),
42 shall be adopted within one year of the effective date of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), and shall
44 address, among other things, the following issues as they relate to
45 inclusive playgrounds:

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

Matter underlined thus is new matter.

- 1 (1) Parking.
- 2 (2) Routes of access to playground and related facilities.
- 3 (3) The use of unitary surfacing in all areas of the playground to
4 allow the maximum possible access to the playground for people
5 using wheeled mobility devices.
- 6 (4) Restroom facilities, including how to ensure that families
7 with older children or children with large adaptive equipment have
8 a safe place to provide toileting needs for their children.
- 9 (5) Shade.
- 10 (6) Fencing.
- 11 (7) The use of play components that address the physical,
12 sensory, cognitive, social, emotional, imaginative, and
13 communication needs of those who will visit the playground.
- 14 (8) Quiet play areas.
- 15 (9) Universally accessible sand play and water play.
- 16 (10) Ramps and transfer points on playground equipment.
- 17 (11) Accessibility of slides and other equipment to children with
18 cochlear ear implants.

19 The Commissioner of Community Affairs shall adopt said
20 recommendations, unless the commissioner determines the
21 recommendations are inconsistent with the intent and purpose of
22 P.L. , c. (C.) (pending before the Legislature as this bill), or
23 otherwise unfeasible. A recommendation shall not be considered
24 unfeasible if it is demonstrated that the recommendation may be
25 implemented through the use of commercially available equipment.
26 The rules and regulations shall exceed the standards required under
27 the barrier free subcode, adopted pursuant to the "State Uniform
28 Construction Code Act," P.L.1975, c.217, and the federal
29 "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et
30 seq.) and any regulations pursuant to those acts. The rules and
31 regulations relating to inclusive playgrounds shall, at a minimum,
32 require fully accessible playground surfacing, access ramps leading
33 up to and within play structures, so that a minimum of 75 percent of
34 the elevated play elements on all structures are accessible to people
35 using wheeled mobility devices, and play structures designed to
36 facilitate access by adults and children with disabilities.

37 c. The department shall not be responsible for enforcement of
38 any rules or regulations promulgated by this act, unless the
39 department is otherwise responsible for enforcement pursuant to
40 P.L.1975, c.217 (C.52:27D-119 et seq.).
41 (cf: P.L.1999, c.50, s.2)

42
43 2. (New section) a. As used in this section:

44 "Commissioner" means the Commissioner of Environmental
45 Protection.

46 "Constitutionally dedicated moneys" means the same as that term
47 is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

1 "Green Acres bond act" means: P.L.1961, c.46; P.L.1971,
2 c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987,
3 c.265; P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007,
4 c.119; P.L., c.117; and any State general obligation bond act that
5 may be approved after the date of enactment of P.L. ,
6 c. (pending before the Legislature as this bill) for the purpose of
7 providing funding for the acquisition or development of lands for
8 recreation and conservation purposes or for farmland preservation
9 purposes.

10 "Green Acres funds" means constitutionally dedicated moneys,
11 Green Acres bond act moneys, or other State moneys appropriated
12 to acquire lands for recreation and conservation purposes.

13 "Inclusive playground" means a playground open to the public
14 outfitted with a wheelchair accessible play surface and no fewer
15 than three play structures designed in accordance with the rules and
16 regulations adopted pursuant to section 2 of P.L.1999,
17 c.50 (C.52:27D-123.10).

18 "Recreation and conservation purposes" means the use of lands
19 for beaches, biological or ecological study, boating, camping,
20 fishing, forests, greenways, hunting, natural areas, parks,
21 playgrounds, protecting historic properties, water reserves,
22 watershed protection, wildlife preserves, active sports, or a similar
23 use for either public outdoor recreation or conservation of natural
24 resources, or both.

25 b. One year after the effective date of P.L. , c. (C.)
26 (pending before the Legislature as this bill), except as provided for
27 in subsection c. of this section, the commissioner shall deny any
28 application submitted by a county seeking to acquire or develop
29 lands for recreational and conservation purposes using Green Acres
30 funds unless the requesting county has completed or commenced
31 design and construction of at least one inclusive playground prior to
32 the date of the request.

33 c. One year after the effective date of P.L. , c. (C.)
34 (pending before the Legislature as this bill), the commissioner may
35 approve an application submitted by a county without an inclusive
36 playground seeking to acquire or develop lands for recreational and
37 conservation purposes using Green Acres funds provided that the
38 Green Acres funds requested by the county are to be used for the
39 design and construction of an inclusive playground.

40 d. The board of chosen freeholders of any county or any county
41 park commission may partner with a nonprofit organization, with a
42 demonstrated expertise in the design and construction of inclusive
43 playgrounds, to assist with the design and construction of inclusive
44 playgrounds. Any agreement entered into in accordance with this
45 section shall not be subject to the requirements and provisions of
46 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
47 seq.).

1 3. (New section) In the event that State funds are made
2 available to counties for the purpose of constructing inclusive
3 playgrounds, every county receiving funding shall be required to
4 construct and maintain at least one inclusive playground designed in
5 accordance with the rules and regulations adopted pursuant to
6 section 2 of P.L.1999, c.50 (C.52:27D-123.10). The board of
7 chosen freeholders of any county or any county park commission
8 may partner with a nonprofit organization, with a demonstrated
9 expertise in the design and construction of inclusive playgrounds, to
10 assist with the design and construction of inclusive playgrounds.
11 Any agreement entered into in accordance with this section shall
12 not be subject to the requirements and provisions of the "Local
13 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

14

15 4. This act shall take effect immediately.

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STATEMENT

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20 This bill requires the Commissioner of Community Affairs to
21 establish rules and regulations for the design and construction of
22 inclusive playgrounds with standards of accessibility for children
23 and adults with disabilities that generally exceed current standards.
24 This bill also conditions the receipt of State funds to acquire or
25 develop lands for recreational and conservation purposes on the
26 existence of at least one inclusive playground in the county requesting
27 the funds at the time of the request. Finally, the bill requires counties
28 to construct inclusive playgrounds in the event that the Legislature
29 appropriates funding for inclusive playgrounds.

30 Under this bill, the Department of Community Affairs in
31 consultation with the Department of Education would be required to
32 create rules and regulations for inclusive playgrounds that generally
33 exceed current State and federal standards within 90 days of the
34 effective date of the bill. In adopting rules and regulations for
35 inclusive playgrounds, the commissioner must consult with
36 nonprofit organizations with a demonstrated expertise in the design
37 and construction of inclusive playgrounds. At a minimum, the rules
38 and regulations would require fully accessible playground
39 surfacing, access ramps leading up to and within play structures,
40 and play structures designed to facilitate access by adults and
41 children with disabilities. The bill would require the Commissioner
42 of Community Affairs to propose rules and regulations within 180
43 days of the effective date of the bill and adopt rules and regulations
44 within one year of the effective date of the bill. The rules and
45 regulations would address various issues related to inclusive
46 playgrounds, including, but not limited to, parking, restroom
47 facilities, fencing, surfacing, and shade areas.

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1 Additionally, the bill requires the Commissioner of
2 Environmental Protection to deny any application submitted by a
3 county seeking Green Acres funds to pay for acquisition or
4 development of lands for recreational and conservation purposes
5 unless the requesting county has built or has plans to build at least
6 one inclusive playground by the date of the request. The
7 commissioner is permitted to award Green Acres funds to a county
8 without an inclusive playground if the requested funds are to be
9 utilized for the creation of an inclusive playground. Furthermore,
10 the bill permits counties to collaborate with nonprofit organizations,
11 with a demonstrated expertise in the design and construction of
12 inclusive playgrounds, to assist with the design and construction of
13 inclusive playgrounds.