

ASSEMBLY, No. 3392

STATE OF NEW JERSEY

211th LEGISLATURE

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Sponsored by:

Assemblyman BRIAN E. RUMPF

District 9 (Atlantic, Burlington and Ocean)

Assemblyman CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Promotes improved polling place accessibility for individuals with disabilities and the elderly.

CURRENT VERSION OF TEXT

As introduced.



A3392 RUMPF, CONNORS

2

1 AN ACT to improve polling place accessibility, amending R.S.19:8-2,
2 and amending and supplementing P.L.1991, c.429.

3

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

6

7 1. R.S.19:8-2 is amended to read as follows:

8 19:8-2. The clerk of every municipality, on or before April 1 shall
9 certify to the county board of every county wherein such municipality
10 is located a suggested list of places in the municipality suitable for
11 polling places. The county board shall select the polling places for the
12 election districts in the municipalities of the county for all elections in
13 the municipalities thereof, including all commission government
14 elections in the county. The county boards shall not be obliged to
15 select the polling places so suggested by the municipal clerks, but may
16 choose others where they may deem it expedient. Preference in
17 locations shall be given to schools and public buildings where space
18 shall be made available by the authorities in charge, upon request, if
19 same can be done without detrimental interruption of school or the
20 usual public services thereof, and for which the authority in charge
21 shall be reimbursed, by agreement, for expenses of light, janitorial and
22 other attending services arising from such use. Each polling place
23 selected shall be accessible to individuals with disabilities and the
24 elderly. A polling place shall be considered accessible if in compliance
25 with the "Americans with Disabilities Act of 1990" (42 U.S.C.A.
26 12102 et seq.). In no case shall the authorities in charge of a public
27 school or other public building deny the request of the county board
28 for the use, as a polling place, of any building they own or lease.

29 Where the county board shall fail to agree as to the selection of the
30 polling place or places for any election district, within five days of an
31 election, the county clerk shall select and designate the polling place
32 or places in any such election district.

33 The county board may select a polling place other than a
34 schoolhouse or public building outside of the district but such polling
35 place shall not be located more than 1,000 feet distant from the
36 boundary line of the district. The Attorney General may, however,
37 permit a polling place to be more than 1,000 feet distant from the
38 boundary line of the district if there is no suitable polling place
39 accessible to individuals with disabilities and the elderly within the
40 district or 1,000 feet distant from the boundary line of the district.

41 Whenever possible, the county board shall contact the managers or
42 owners of commercial or private buildings that it deems suitable to use
43 as polling places, and are in or near an election district lacking an

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

Matter underlined thus is new matter.

1 accessible polling place, to determine whether a portion of such a
2 building may be used as a polling place on the day of an election.
3 Reimbursement for the use of a portion of such a building shall be the
4 same as provided by this section for schools and public buildings.

5 (cf: P.L.1989, c.292, s.1)

6
7 2. Section 1 of P.L.1991, c.429 (C.19:8-3.1) is amended to read as
8 follows:

9 1. Each polling place selected by the county board of elections for
10 use in any election shall be accessible to [elderly and physically
11 disabled voters] individuals with disabilities and the elderly unless:

12 a. the [Secretary of State] Attorney General determines that a
13 state of emergency exists that would otherwise interfere with the
14 efficient administration of that election; or

15 b. the [Secretary of State] Attorney General grants a temporary
16 waiver based upon a determination that all potential polling places
17 have been surveyed and no accessible polling place is available, nor is
18 the municipality able to make one temporarily accessible in or near the
19 election district involved. Temporary waivers shall be granted no
20 more than twice for any polling place following the effective date of
21 P.L. , c. (now pending before the Legislature as this bill), and
22 each waiver shall be granted for no more than one year. Before the
23 expiration of the waiver, the board shall formulate a plan to establish
24 an accessible location for the polling place in or near the election
25 district. A copy of the waiver and the plan shall be filed with the
26 Voting Accessibility Advisory Committee, established pursuant to
27 section 11 of P.L.1991, c.429 (C.19:8-3.7).

28 (cf: P.L.1991, c.429, s.1)

29
30 3. Section 2 of P.L.1991, c.429 (C.19:8-3.2) is amended to read as
31 follows:

32 2. The [Secretary of State] Attorney General shall establish, in
33 accordance with the "Administrative Procedure Act," P.L.1968, c.410
34 (C.52:14B-1 et seq.), the rules and regulations necessary to insure that
35 in any election [any elderly or physically disabled voter] voters who
36 are elderly or have a disability and are assigned to an inaccessible
37 polling place will, upon advance request of that voter, either be
38 permitted to vote at the alternative, accessible polling place nearest to
39 that voter's residence which has a common ballot or be provided with
40 a civilian absentee ballot, pursuant to section 4 of P.L.1953, c.211
41 (C.19:57-4), as an alternative means of casting a ballot on the day of
42 the election.

43 (cf: P.L.1991, c.429, s.2)

44
45 4. Section 3 of P.L.1991, c.429 (C.19:8-3.3) is amended to read as
46 follows:

1 3. The [Secretary of State] Attorney General shall [use the barrier
2 free sub-code of the State building code to determine the standards of
3 accessibility for polling places] be responsible for ensuring that each
4 polling place is in compliance with "The Americans with Disabilities
5 Act of 1990" (42 U.S.C.A. 12102 et seq.) and shall exercise oversight
6 authority over the county boards of elections to assure that each
7 polling place is in compliance with that act.

8 (cf: P.L.1991, c.429, s.3)

9
10 5. Section 4 of P.L.1991, c.429 (C.19:8-3.4) is amended to read as
11 follows:

12 4. No later than May 15th of each year, beginning with May 15
13 next following the enactment of P.L. , c. (now pending before the
14 Legislature as this bill), each [county board of elections] Voting
15 Accessibility Advisory Committee, established pursuant to section 11
16 of P.L.1991, c.429 (C.19:8-3.7) shall report to the [Secretary of
17 State] Attorney General and the county board of elections, on the
18 form provided by the [Secretary of State] Attorney General, a list of
19 all polling places in the county, specifying any found inaccessible. The
20 [county board of elections] committee shall indicate the reasons for
21 inaccessibility, according to guidelines established in "The Americans
22 with Disabilities Act of 1990," and shall consult with the county board
23 of elections to determine the efforts made pursuant to [this act]
24 P.L.1991, c.429 (C.19:8-3.1 et seq.) to locate alternative polling
25 places or the actions needed to make the existing facilities accessible.
26 Each county board of elections shall notify the [Secretary of State]
27 Attorney General and the committee of any changes in polling place
28 locations before the next general election, including any changes
29 required due to the alteration of district boundaries.

30 (cf: P.L.1991, c.429, s.4)

31
32 6. Section 5 of P.L.1991, c.429 (C.19:8-3.5) is amended to read as
33 follows:

34 5. No later than July 1st of each year, beginning with July 1 next
35 following the enactment of P.L. , c. (now pending before the
36 Legislature as this bill) the [Secretary of State] Attorney General shall
37 review the reports of the [county boards of elections] Voting
38 Accessibility Advisory Committee and shall ensure that every possible
39 effort has been made to comply with the provisions of this act.

40 (cf: P.L.1991, c.429, s.5)

41
42 7. Section 11 of P.L.1991, c.429 (C.19:8-3.7) is amended to read
43 as follows:

44 11. a. [In order to assist and advise county election officers in
45 implementing the provisions of this 1991 amendatory and

1 supplementary act, the] The county executive in each county in which
2 that office is established, or the governing body of the county in any
3 other county, shall establish a Voting Accessibility Advisory
4 Committee, which shall [be] consist of at least seven and not more
5 than 11 members as follows:

6 (1) The four members of the county board of elections; and

7 (2) Three or more public members, to be appointed by the county
8 executive or county governing body as follows:

9 (a) A representative of the county executive or a member of the
10 county governing body, as appropriate;

11 (b) At least one [elderly and handicapped] individual with a
12 disability [representing one or more organizations of such
13 individuals];

14 (c) At least one [person] individual trained in the provisions of
15 [the barrier free sub-code] "The Americans with Disabilities Act of
16 1990" (42 U.S.C.A. 12102 et seq.); and

17 (d) If the county executive or governing body so elects, any other
18 person deemed able by the executive or governing body to be of
19 assistance [in the implementation of the act].

20 b. In order to accurately evaluate the accessibility of all polling
21 locations, the Voting Accessibility Advisory Committee shall
22 undertake a ["walking tour"] physical inspection of each polling
23 [location] place in the county. [Any elderly and handicapped] A
24 committee member who has a disability should participate in any such
25 [tour] inspection. The results shall be used in completing the list of
26 any polling places found inaccessible, pursuant to section 4 of
27 P.L.1991, c.429 (C.19:8-3.4).

28 c. [On and after January 1, 1994, the continuance in any county of
29 a Voting Accessibility Advisory Committee for that county shall be
30 optional] The committee shall receive notice of complaints filed from
31 their county with the Division of Elections in the Department of Law
32 and Public Safety pursuant to section 6 of P.L.2004, c.88 (C.19:61-6)
33 that concern the accessibility of polling places to individuals with
34 disabilities and the elderly.

35 (cf: P.L.1991, c.429, s.11)

36

37 8. (New section) a. There shall be established in the Department
38 of Law and Public Safety a non-lapsing fund to be known as the
39 "Polling Place Accessibility Fund," hereinafter referred to as the fund,
40 to be held separate from all other funds of the State. The money in the
41 fund shall be derived from funds provided by the federal government
42 to improve accessibility to polling places pursuant to section 261 of
43 the "Help America Vote Act of 2002," Pub.L.107-252 (42 U.S.C.
44 15481 et seq.), appropriations by the Legislature, any funds donated
45 to the State and designated for purposes prescribed by subsection b.

1 of this section and such other sources as the Legislature shall
2 designate. All earnings received from the investment or deposit of
3 moneys in the fund shall be credited to the fund.

4 b. The money in the fund shall be made available by the Attorney
5 General as grants to the county boards of elections for the purpose of
6 ensuring polling place compliance with "The Americans with
7 Disabilities Act of 1990" (42 U.S.C.A.12102 et seq.), as provided for
8 by P.L.1991, c.429 (C.19:8-3.1 et seq.), as amended and
9 supplemented.

10 c. All grants from the fund shall be awarded pursuant to rules and
11 regulations promulgated by the Attorney General. All monetary
12 awards shall be granted at the discretion of the Attorney General,
13 subject to available moneys in the fund.

14
15 9. This act shall take effect immediately.

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18 STATEMENT

19
20 The purpose of this bill is to facilitate polling place accessibility for
21 individuals with disabilities and the elderly.

22 Specifically, the bill:

23 1) requires polling places to conform with the standards for
24 accessibility set forth in the federal "Americans with Disabilities Act
25 of 1990;"

26 2) grants the Attorney General authority to permit a polling place
27 to be more than 1,000 feet from the boundary line of an election
28 district if there is no other suitable polling place accessible to
29 individuals with disabilities and the elderly;

30 3) permits the county boards of elections to use accessible
31 commercial or private buildings as polling places, if those buildings
32 are in or near an election district lacking an accessible polling place;

33 4) permits temporary waivers for inaccessible polling places to be
34 granted no more than twice for any polling place, and stipulates that
35 each waiver can be granted for no more than one year; and

36 5) states that the Attorney General is responsible for ensuring that
37 each polling place is in compliance with "The Americans with
38 Disabilities Act of 1990," and that the Attorney General will exercise
39 oversight authority over the county boards of elections to assure that
40 each polling place is in compliance with that act.

41 The bill also establishes as a permanent entity in each county the
42 Voting Accessibility Advisory Committee, provided for by P.L.1991,
43 c.429. The committees would be comprised of at least seven
44 members, four of whom would be members of the county board of
45 elections. Additionally, the county executive or county governing
46 body would appoint three or more public members, including a

1 representative of the county executive or a member of the county
2 governing body, an individual with a disability, and an individual
3 trained in the provisions of "The Americans with Disabilities Act of
4 1990."

5 Each committee will undertake a physical inspection of each polling
6 place in their county. The results will be used to complete a list of
7 inaccessible polling places, to be submitted to the county board of
8 elections and the Attorney General. The committee will also receive
9 notice of complaints filed from their county with the Division of
10 Elections in the Department of Law and Public Safety that concern the
11 accessibility of polling places to individuals with disabilities and the
12 elderly.

13 The bill also establishes the "Polling Place Accessibility Fund." The
14 money in the fund will include funds provided by the federal
15 government to improve accessibility to polling places pursuant to
16 section 261 of the "Help America Vote Act of 2002," appropriations
17 by the Legislature, any funds donated to the State and other sources.
18 The money in the fund will be made available by the Attorney General
19 as grants to the county boards of elections for the purpose of ensuring
20 polling place compliance with "The Americans with Disabilities Act of
21 1990."