

**SENATE, No. 1389**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED MARCH 29, 2004

**Sponsored by:**

**Senator LEONARD T. CONNORS, JR.**

**District 9 (Atlantic, Burlington and Ocean)**

**Senator ANDREW R. CIESLA**

**District 10 (Monmouth and Ocean)**

**SYNOPSIS**

Promotes improved polling place accessibility for certain individuals with disabilities and the elderly; appropriates \$500,000.

**CURRENT VERSION OF TEXT**

As introduced.



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

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

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

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

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

35 The county board may select a polling place other than a  
36 schoolhouse or public building outside of the district but such polling  
37 place shall not be located more than 1,000 feet distant from the  
38 boundary line of the district.

39 The Voting Accessibility Advisory Committee established in each  
40 county pursuant to section 11 of P.L.1991, c.429 (C.19:8-3.7) shall  
41 receive complaints from registered voters regarding the inaccessibility  
42 of polling places in the county.

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

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

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

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

9       b. the [Secretary of State] Attorney General grants a temporary  
10 waiver based upon a determination that all potential polling places  
11 have been surveyed and no accessible polling place is available, nor is  
12 the municipality able to make one temporarily accessible in or near the  
13 election district involved. Temporary waivers shall be granted for no  
14 more than one year. Before the expiration of the waiver, the board  
15 shall formulate a plan to establish an accessible location for the polling  
16 place in or near the election district. A copy of the waiver and the  
17 plan shall be submitted for review to the Voting Accessibility Advisory  
18 Committee, established pursuant to section 11 of P.L.1991, c.429  
19 (C.19:8-3.7).

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

21

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

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

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

36

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

39       3. The [Secretary of State] Attorney General shall [use the barrier  
40 free sub-code of the State building code to determine the standards of  
41 accessibility for polling places] be responsible for ensuring that each  
42 polling place shall be in compliance with "The Americans with  
43 Disabilities Act of 1990" (42 U.S.C.A. 12102 et seq.).

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

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

3       4. No later than May 15th of each year, each county board of  
4 elections shall report to the [Secretary of State] Attorney General, on  
5 the form provided by the [Secretary of State] Attorney General, a list  
6 of all polling places in the county, specifying any found inaccessible.  
7 The county board of elections shall indicate the reasons for  
8 inaccessibility, and the efforts made pursuant to this act to locate  
9 alternative polling places or to make the existing facilities accessible.  
10 Each county board of elections shall notify the [Secretary of State]  
11 Attorney General of any changes in polling place locations before the  
12 next general election, including any changes required due to the  
13 alteration of district boundaries.

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

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

18       5. No later than July 1st of each year, the [Secretary of State]  
19 Attorney General shall review the reports of the county boards of  
20 elections and shall ensure that every possible effort has been made to  
21 comply with the provisions of this act.

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

23

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

26       11. a. [In order to assist and advise county election officers in  
27 implementing the provisions of this 1991 amendatory and  
28 supplementary act, the] The county executive in each county in which  
29 that office is established, or the governing body of the county in any  
30 other county, shall establish a Voting Accessibility Advisory  
31 Committee, which shall [be] consist of at least seven and not more  
32 than 11 members as follows:

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

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

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

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

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

43       (d) If the county executive or governing body so elects, any other  
44 person deemed able by the executive or governing body to be of  
45 assistance in the implementation of the act.

1       b. [In order to accurately evaluate the accessibility of all polling  
2 locations, the Voting Accessibility Advisory Committee shall  
3 undertake a "walking tour" of each polling location in the county. Any  
4 elderly and handicapped committee member should participate in any  
5 such tour.

6       c. On and after January 1, 1994, the continuance in any county of  
7 a Voting Accessibility Advisory Committee for that county shall be  
8 optional] The Voting Accessibility Advisory Committee within each  
9 county shall investigate all complaints regarding inaccessible polling  
10 places. The investigation shall produce a report, which shall be made  
11 available to the public within 30 days of the filing of the complaint,  
12 that includes the initial complaint received by the committee, identifies  
13 the polling place location and the reasons for the complaint and  
14 specifies the corrective action the committee deems necessary. The  
15 report shall request the municipality in which the inaccessible polling  
16 place is located to take the corrective actions the committee deems  
17 necessary. A copy of the report shall be transmitted to the  
18 municipality and the Attorney General no less than five days prior to  
19 making it available to the public. A plan to undertake the corrective  
20 actions shall be developed by the board in consultation with the  
21 municipality within 120 days of the day the report is issued to the  
22 public. That plan shall be implemented by the municipality as soon as  
23 possible and to the extent that funding is available from the "Polling  
24 Place Accessibility Fund," established pursuant to section 8 of P.L. ,  
25 c. (C. ) (now pending before the Legislature as this bill). The  
26 committee shall transmit to the individual who filed the initial  
27 complaint about the inaccessibility of a polling place a copy of the  
28 report and a copy of the plan of corrective actions.

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

30

31       8. (New section) a. There shall be established in the Department  
32 of Law and Public Safety a non-lapsing revolving fund to be known as  
33 the "Polling Place Accessibility Fund," hereinafter referred to as the  
34 fund, to be held separate from all other funds of the State. The money  
35 in the fund shall be derived from funds provided by the federal  
36 government to improve accessibility to polling places pursuant to the  
37 "Help America Vote Act of 2002," Pub.L.107-252 (42 U.S.C. 15481  
38 et seq.), annual appropriations by the Legislature, any funds donated  
39 to the State and designated for purposes prescribed by subsection b.  
40 of this section and such other sources as the Legislature shall  
41 designate. All earnings received from the investment or deposit of  
42 moneys in the fund shall be credited to the fund.

43       b. The money in the fund shall be made available by the Attorney  
44 General as grants to implement the provisions of P.L.1991, c.429  
45 (C.19:8-3.1 et seq.), as amended and supplemented. The grants, in  
46 amounts not to exceed \$50,000 per county per year, shall be available

1 to those municipalities seeking to implement the corrective plans that  
2 the county Voting Accessibility Advisory Committee has developed  
3 pursuant to section 7 of P.L. , c. (C. )(now pending before the  
4 Legislature as this bill).

5 c. All grants from the fund shall be awarded on a competitive basis,  
6 pursuant to the rules and regulations promulgated by the Attorney  
7 General. All monetary awards shall be granted at the discretion of the  
8 Attorney General, subject to available moneys in the fund.

9  
10 9. There is appropriated from the General Fund to the Department  
11 of Law and Public Safety the amount of \$500,000 for deposit into the  
12 "Polling Place Accessibility Fund," established by section 8 of P.L. ,  
13 c. (C. )(now pending before the Legislature as this bill).

14  
15 10. 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 and the elderly.

22 Specifically, the bill revises the current law, which identifies and  
23 monitors inaccessible polling places, and requires instead that:

24 1) temporary waivers to the requirement that a polling place be  
25 accessible be granted for no more than one year;

26 2) accessibility to polling places must conform with the standards  
27 for accessibility set forth in the federal "Americans with Disabilities  
28 Act of 1990;" and

29 3) makes the Attorney General responsible for ensuring that each  
30 polling place is in compliance the "Americans with Disabilities Act of  
31 1990."

32 The bill also establishes as a permanent entity in each county the  
33 Voting Accessibility Advisory Committee, provided for by P.L.1991,  
34 c.429. Each such committee would be responsible for investigating all  
35 complaints within a county regarding inaccessible polling places and  
36 producing a report that identifies the reasons for the complaint and  
37 specifies the corrective actions it deems necessary to make the polling  
38 places accessible. A plan to undertake the corrective action would  
39 then be developed by the county board of elections in consultation  
40 with the municipality in which the inaccessible polling place is located  
41 within 120 days of the day the report is issued. That plan would be  
42 implemented as soon as possible and to the extent that funding is  
43 available from the "Polling Place Accessibility Fund," a non-lapsing  
44 revolving fund established by the bill and administered by the Attorney  
45 General. The fund would provide grants, in amounts not to exceed  
46 \$50,000 per county per year, to those municipalities seeking to

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1 implement the corrective plans that the county Voting Accessibility  
2 Advisory Committee has developed.

3 The bill contains an initial appropriation to the fund of \$500,000,  
4 part of which has been provided already to the State pursuant to the  
5 Federal "Help America Vote Act of 2002."