SYNOPSIS
Jake’s Law: Incentivizes counties to design and construct completely inclusive playgrounds as a priority for State funding for recreational and conservation purposes.

CURRENT VERSION OF TEXT
As reported by the Senate Community and Urban Affairs Committee on December 4, 2017, with amendments.

(Sponsorship Updated As Of: 1/9/2018)

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

1. R.S.40:12-9 is amended to read as follows:

Any two or more municipalities in any county, or any municipality and the coterminous school district, or any municipality and county, or any municipality and county park commission may jointly acquire property for and improve, operate, and maintain on existing property, any playgrounds, completely inclusive playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, and may appropriate money therefor. The municipality may pay over to the board of education of the school district such money as may be so appropriated to be disbursed by the said board of education for any of such joint purposes. The county or county park commission may pay over to the municipality such money as may be appropriated to be disbursed by the county or county park commission for any such joint purposes.

(cf: P.L.1948, c.61, s.1)

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

a. The Department of Community Affairs in consultation with the Department of Education shall promulgate rules and regulations for the design, installation, inspection and maintenance regarding all playgrounds operated by any governmental entity, nonprofit entity or private entity. Those regulations shall meet any standard of care imposed by law on playground operators, and shall be those guidelines and criteria which are contained in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission or any successor. The rules and regulations shall include special provisions for playgrounds appropriate for children within the range of ages in day care settings. The rules and regulations shall not apply to completely inclusive playgrounds.

b. (1) The Department of Community Affairs, in consultation with the Department of Education, shall promulgate rules and regulations for the design, installation, inspection and maintenance regarding all playgrounds operated by any governmental entity, nonprofit entity or private entity. Those regulations shall meet any standard of care imposed by law on playground operators, and shall be those guidelines and criteria which are contained in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission or any successor. The rules and regulations shall include special provisions for playgrounds appropriate for children within the range of ages in day care settings. The rules and regulations shall not apply to completely 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.

Matter enclosed in superscript numerals has been adopted as follows:

1. Assembly AWC committee amendments adopted June 6, 2016.
3. Assembly floor amendments adopted October 20, 2016.
regulations for the design, installation, inspection, and maintenance of completely inclusive playgrounds. Those regulations shall meet any standard of care imposed by law on playground operators, and shall be those guidelines and criteria which are contained in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission or any successor. The rules and regulations shall include special provisions for completely inclusive playgrounds appropriate for children within the range of ages in day care settings. Only playgrounds that meet these rules and regulations shall be deemed completely inclusive playgrounds for the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill).^2

The rules and regulations shall also include provisions for completely^2 inclusive playgrounds designed with standards that generally exceed those required by the "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and result in following^2 the inclusion of people with disabilities, including children and adults^2[to the greatest degree feasible]^2:

1^1The^2[b.]^2[2]^2 The Department of Community Affairs shall promulgate^1 rules and regulations^1[shall also include provisions]^1 for completely^2 inclusive playgrounds designed with standards that generally exceed those required by the "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and result in allowing the inclusion of people with disabilities, including children and adults^2[to the greatest degree feasible]^2. The rules and regulations^1 for completely^2 inclusive playgrounds^1 shall require park and playground areas that enable every visitor, regardless of medical condition, with the chance to engage in the park and playground experience^2[to the best of the visitor’s ability]^2:

1^1[b.]^1 Within 90 days of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and prior to proposing a rule in the New Jersey Register, the Commissioner of Community Affairs shall invite and receive recommendations regarding the adoption of rules and regulations making completely^2 inclusive^2 playgrounds available to persons of all ages and abilities from nonprofit^2 organizations, playground equipment manufacturers, playground safety consultants, and persons with disabilities^2 with a demonstrated expertise in the design and construction of completely^2 inclusive playgrounds or with a demonstrated expertise in the promulgation and implementation of accessibility standards. The rules and regulations shall be proposed within 180 days of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), shall be adopted within one year of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and shall address, among other things, the following issues as they relate to completely^2 inclusive playgrounds:
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(1) Parking. If only on-street parking is available, the creation of accessible parking, including the installation of a curb cut.

(2) Routes of access to playground and related facilities.

(3) The use of unitary surfacing in all areas of the playground to allow the maximum possible access to the playground for people using wheeled mobility devices.

(4) Restroom facilities. The commissioner may determine which restroom facilities shall be adapted to ensure that families with older children or children with large adaptive equipment have a safe place to provide toileting needs for their children.

(5) Shade, so that a minimum of 20 percent of the square footage of unitary surface and equipment of the playground is shaded by natural or other means.

(6) Fencing.

(7) The use of play components that address the physical, sensory, cognitive, social, emotional, imaginative, and communication needs of those who will visit the playground.

(8) Quiet play areas.

(9) Universally accessible sand play and water play.

(10) Ramps and transfer points on playground equipment.

(11) Accessibility of slides and other equipment to children with cochlear ear implants.

The Commissioner of Community Affairs shall adopt said recommendations, unless the commissioner determines the recommendations are inconsistent with the intent and purpose of P.L. , c. (C. ) (pending before the Legislature as this bill), or otherwise unfeasible. A recommendation shall not be considered unfeasible if it is demonstrated that the recommendation may be implemented through the use of commercially available equipment.

The rules and regulations shall exceed the standards required under the barrier free subcode, adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217, and the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and any regulations pursuant to those acts. The rules and regulations relating to inclusive playgrounds shall, at a minimum, require accessible playground surfacing, access ramps leading up to and within play structures, so that a minimum of percent of the elevated play elements on all structures are accessible to people using wheeled mobility devices, and play structures designed to facilitate access by adults and children with disabilities.

A playground that has been completed as of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) may qualify as a completely inclusive playground if it includes unitary surfacing and fencing, at least 50 percent elevated play elements or changes in topographical elevations that function as
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5 elevated play elements, and otherwise meets the standards required
by the "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.).

5 The department shall not be responsible for enforcement of
any rules or regulations promulgated by this act, unless the
department is otherwise responsible for enforcement pursuant to
P.L.1975, c.217 (C.52:27D-119 et seq.).

(cf: P.L.1999, c.50, s.2)

2 [2.3.2 (New section) a. As used in this section:
"Commissioner" means the Commissioner of Environmental
Protection.
"Constitutionally dedicated moneys" means the same as that term
is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).
"Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165;
P.L.2009, c.117; and any State general obligation bond act that
may be approved after the date of enactment of P.L.

2 c. (pending before the Legislature as this bill) for the purpose of
providing funding for the acquisition or development of lands for
recreation and conservation purposes or for farmland preservation
purposes.
"Green Acres funds" means constitutionally dedicated moneys,
Green Acres bond act moneys, or other State moneys appropriated
to acquire lands for recreation and conservation purposes.

2 ["Inclusive] "Completely inclusive" playground" means a
playground open to the public outfitted with a wheelchair
accessible play surface and no fewer than three play structures,
designated for public use for children two to five years of age or
five to twelve years of age, with an accessible playground surface, a
playground surface inspection and maintenance schedule consistent
with the standards detailed in the "Americans with Disabilities Act
of 1990" (42 U.S.C. s.12101 et seq.), and designed in accordance
with the rules and regulations adopted pursuant to section 2 of
P.L.1999, c.50 (C.52:27D-123.10).
"Recreation and conservation purposes" means the use of lands
for beaches, biological or ecological study, boating, camping,
fishing, forests, greenways, hunting, natural areas, parks,
playgrounds, protecting historic properties, water reserves,
watershed protection, wildlife preserves, active sports, or a similar
use for either public outdoor recreation or conservation of natural
resources, or both.

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

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

d. The commissioner shall prioritize any application submitted
by a county seeking to acquire or develop lands for recreational and
conservation purposes using Green Acres funds, provided that the
Green Acres funds requested by the county are to be used for the
design and construction of an inclusive playground.

The commissioner shall grant further prioritization to the applications submitted by
counties that do not currently operate and maintain an inclusive
playground, in an effort to ensure at least one inclusive
playground is operated and maintained by each county.

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

d. The board of chosen freeholders of any county or any
county park commission may jointly enter into an agreement
pursuant to section 1 of P.L.1948, c.61 (R.S.40:12-9) for the
construction and maintenance of a completely inclusive playground.
For purposes of the prioritization of an application submitted by a
county pursuant to subsection b. of section 3 of
P.L. , c. (C. ) (pending before the Legislature as this bill), a
completely inclusive playground constructed and maintained
pursuant to such an agreement shall be operated and maintained by
the county in which it is located.

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

2[4.] 5. This act shall take effect immediately.