

**ASSEMBLY, No. 2187**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblywoman GABRIELA M. MOSQUERA**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblymen Benson, Holley, Assemblywomen McKnight, Vainieri Huttie  
and Jones**

**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 introduced.



**(Sponsorship Updated As Of: 2/16/2018)**

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

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

8  
9 1. R.S.40:12-9 is amended to read as follows:

10 40:12-9. Any two or more municipalities in any county, or any  
11 municipality and the coterminous school district, or any  
12 municipality and county, or any municipality and county park  
13 commission may jointly acquire property for **[and]** or improve,  
14 operate, and maintain, on existing property, any playgrounds,  
15 completely inclusive playgrounds, playfields, gymnasiums, public  
16 baths, swimming pools, or indoor recreation centers, and may  
17 appropriate money therefor. The municipality may pay over to the  
18 board of education of the school district such money as may be so  
19 appropriated to be disbursed by the said board of education for any  
20 of such joint purposes. The county or county park commission may  
21 pay over to the municipality such money as may be appropriated to  
22 be disbursed by the county or county park commission for any such  
23 joint purposes.

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

25  
26 2. Section 2 of P.L.1999, c.50 (C.52:27D-123.10) is amended  
27 to read as follows:

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

41 b. (1) The Department of Community Affairs, in consultation  
42 with the Department of Education, shall promulgate rules and  
43 regulations for the design, installation, inspection, and maintenance  
44 of completely inclusive playgrounds. Those regulations shall meet  
45 any standard of care imposed by law on playground operators, and

**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 shall be those guidelines and criteria which are contained in the  
2 Handbook for Public Playground Safety produced by the United  
3 States Consumer Products Safety Commission or any successor.  
4 The rules and regulations shall include special provisions for  
5 completely inclusive playgrounds appropriate for children within  
6 the range of ages in day care settings. Only playgrounds that meet  
7 these rules and regulations shall be deemed completely inclusive  
8 playgrounds for the purposes of P.L. , c. (C. ) (pending  
9 before the Legislature as this bill).

10 The rules and regulations shall also include provisions for  
11 completely inclusive playgrounds designed with standards that  
12 generally exceed those required by the "Americans with Disabilities  
13 Act of 1990" (42 U.S.C. s.12101 et seq.) and result in the inclusion  
14 of people with disabilities, including children and adults.

15 (2) "The Department of Community Affairs shall promulgate  
16 rules and regulations for completely inclusive playgrounds designed  
17 with standards that generally exceed those required by the  
18 "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et  
19 seq.) and result in allowing the inclusion of people with disabilities,  
20 including children and adults, to the greatest degree feasible. The  
21 rules and regulations for completely inclusive playgrounds shall  
22 require park and playground areas that enable every visitor,  
23 regardless of medical condition, with the chance to engage in the  
24 park and playground experience.

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

42 (1) Parking. If only on-street parking is available, the creation  
43 of accessible parking, including the installation of a curb cut.

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

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

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

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

8     (6) Fencing.

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

12    (8) Quiet play areas.

13    (9) Ramps and transfer points on playground equipment.

14    The Commissioner of Community Affairs shall adopt said  
15    recommendations, unless the commissioner determines the  
16    recommendations are inconsistent with the intent and purpose of  
17    P.L. , c. (C. ) (pending before the Legislature as this bill), or  
18    otherwise unfeasible. A recommendation shall not be considered  
19    unfeasible if it is demonstrated that the recommendation may be  
20    implemented through the use of commercially available equipment.  
21    The rules and regulations shall exceed the standards required under  
22    the barrier free subcode, adopted pursuant to the "State Uniform  
23    Construction Code Act," P.L.1975, c.217, and the federal  
24    "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et  
25    seq.) and any regulations pursuant to those acts. The rules and  
26    regulations relating to inclusive playgrounds shall, at a minimum,  
27    require accessible playground surfacing, access ramps leading up to  
28    and within play structures, so that a minimum of 50 percent of the  
29    elevated play elements on all structures are accessible to people  
30    using wheeled mobility devices, and play structures designed to  
31    facilitate access by adults and children with disabilities.

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

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

45  
46    3. (New section) a. As used in this section:

47    "Commissioner" means the Commissioner of Environmental  
48    Protection.

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

3 "Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165;  
4 P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265;  
5 P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007, c.119;  
6 P.L.2009, c.117; and any State general obligation bond act that may  
7 be approved after the date of enactment of P.L. ,  
8 c. (pending before the Legislature as this bill) for the purpose of  
9 providing funding for the acquisition or development of lands for  
10 recreation and conservation purposes or for farmland preservation  
11 purposes.

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

15 "Completely inclusive playground" means a playground  
16 designated for public use for children two to five years of age or  
17 five to twelve years of age, with an accessible playground surface, a  
18 playground surface inspection and maintenance schedule consistent  
19 with the standards detailed in the "Americans with Disabilities Act  
20 of 1990" (42 U.S.C. s.12101 et seq.), and designed in accordance  
21 with the rules and regulations adopted pursuant to section 2 of  
22 P.L.1999, c.50 (C.52:27D-123.10).

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

30 b. One year after the effective date of P.L. , c. (C. )  
31 (pending before the Legislature as this bill), the commissioner shall  
32 prioritize any application submitted by a county seeking to acquire  
33 or develop lands for recreational and conservation purposes using  
34 Green Acres funds, provided that the Green Acres funds requested  
35 by the county are to be used for the design and construction of a  
36 completely inclusive playground pursuant to section 2 of P.L. ,  
37 c. (C. ) (pending before the Legislature as this bill). The  
38 commissioner shall grant further prioritization to the applications  
39 submitted by counties that do not currently operate and maintain an  
40 inclusive playground, in an effort to ensure at least one inclusive  
41 playground is operated and maintained by each county.

42 c. The board of chosen freeholders of any county or any county  
43 park commission may partner with a nonprofit organization  
44 organizations, playground equipment manufacturers, playground  
45 safety consultants, and persons with disabilities, with a  
46 demonstrated expertise in the design and construction of inclusive  
47 playgrounds, to assist with the design and construction of  
48 completely inclusive playgrounds. Any agreement entered into in

1 accordance with this section shall not be subject to the requirements  
2 and provisions of the "Local Public Contracts Law," P.L.1971,  
3 c.198 (C.40A:11-1 et seq.).

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

14  
15 4. (New section) In the event that State funds are made  
16 available to counties for the purpose of constructing inclusive  
17 playgrounds, every county receiving funding shall be required to  
18 construct and maintain at least one inclusive playground designed in  
19 accordance with the rules and regulations adopted pursuant to  
20 section 2 of P.L.1999, c.50 (C.52:27D-123.10). The board of  
21 chosen freeholders of any county or any county park commission  
22 may partner with organizations, playground equipment  
23 manufacturers, playground safety consultants, and persons with  
24 disabilities, with a demonstrated expertise in the design and  
25 construction of inclusive playgrounds, to assist with the design and  
26 construction of inclusive playgrounds. Any agreement entered into  
27 in accordance with this section shall not be subject to the  
28 requirements and provisions of the "Local Public Contracts Law,"  
29 P.L.1971, c.198 (C.40A:11-1 et seq.).

30  
31 5. This act shall take effect immediately.

#### 32 33 34 STATEMENT

35  
36 This bill creates "Jake's Law" concerning completely inclusive  
37 playgrounds designed to accommodate and include adults and  
38 children with disabilities.

39 The bill requires the Department of Community Affairs, in  
40 consultation with the Department of Education, to promulgate:

- 41 • Rules and regulations for the design, installation, inspection,  
42 and maintenance of completely inclusive playgrounds. The  
43 regulations would be required to: (1) meet any standard of care  
44 imposed by law on playground operators; (2) be those  
45 guidelines and criteria which are contained in the Handbook  
46 for Public Playground Safety produced by the United States  
47 Consumer Products Safety Commission or any successor; and  
48 (3) include special provisions for completely inclusive

1 playgrounds appropriate for children within the range of ages  
2 in day care settings.

- 3 • Rules and regulations for completely inclusive playgrounds  
4 designed with standards that generally exceed those required  
5 by the federal “Americans with Disabilities Act of 1990”  
6 (U.S.C. s.12101 et seq.) and which result in allowing the  
7 inclusion of people with disabilities, irrespective of medical  
8 condition.

9 The bill provides that within 90 days of enactment, and prior to  
10 proposing a rule in the New Jersey Register, the Commissioner of  
11 Community Affairs will be required to invite and receive  
12 recommendations from organizations, playground equipment  
13 manufacturers, playground safety consultants, and persons with  
14 disabilities with a demonstrated expertise in the design and  
15 construction of completely inclusive playgrounds or with a  
16 demonstrated expertise in the promulgation and implementation of  
17 accessibility standards. At a minimum, the rules and regulations for  
18 would require that a completely inclusive playground would contain  
19 accessible playground surfacing, access ramps leading up to and  
20 within play structures, and play structures designed to facilitate  
21 access by adults and children with disabilities. The rules and  
22 regulations would address various issues including, but not limited  
23 to, parking, restroom facilities, fencing, surfacing, and shade areas.

24 The bill, requires the commissioner to prioritize any applications  
25 submitted by counties seeking to acquire or develop lands for  
26 recreational and conversation purposes using Green Acres funds if  
27 the funds will be used for the design and construction of a  
28 completely inclusive playground. The commissioner would be  
29 required to grant further prioritization to applications submitted by  
30 counties that do not operate and maintain an inclusive playground  
31 in order to ensure at least one such playground is operated and  
32 maintained by each county. Additionally, the bill requires the  
33 Commissioner of Environmental Protection to prioritize any  
34 application submitted by a county seeking to acquire or develop  
35 lands for recreational and conservation purposes using Green Acres  
36 funds, provided that the Green Acres funds requested by the county  
37 are to be used for the design and construction of an inclusive  
38 playground. The commissioner would grant further prioritization to  
39 the applications submitted by counties that do not currently operate  
40 and maintain an inclusive playground, in an effort to ensure at least  
41 one such playground is operated and maintained by each county.

42 Further, the bill authorizes the board of chosen freeholders of  
43 any county or any county park commission to jointly enter into an  
44 agreement for the construction and maintenance of a completely  
45 inclusive playground. For purposes of the prioritization of an  
46 application submitted by a county pursuant to the provisions of the  
47 bill, a completely inclusive playground constructed and maintained

1 pursuant to such an agreement would be operated and maintained  
2 by the county in which it is located.  
3 Finally, the bill provides that in addition to counties, as provided  
4 under current law, any municipality or county park commission  
5 may jointly acquire property, or improve, operate, and maintain on  
6 existing property, any playgrounds, completely inclusive  
7 playgrounds, playfields, gymnasiums, public baths, swimming  
8 pools, or indoor recreation centers. The bill further authorizes a  
9 county or county park commission to pay over to a municipality any  
10 money as may be appropriated to be disbursed by the county or  
11 county park commission for such joint purpose.