

[First Reprint]

## **ASSEMBLY, No. 3612**

# **STATE OF NEW JERSEY**

## **217th LEGISLATURE**

INTRODUCED APRIL 7, 2016

**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)**

**Assemblyman JAMEL C. HOLLEY**

**District 20 (Union)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**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 reported by the Assembly Women and Children Committee on June 6, 2016, with amendments.

(Sponsorship Updated As Of: 6/17/2016)

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.

28 <sup>1</sup>**[The]** b. The Department of Community Affairs shall  
 29 promulgate<sup>1</sup> rules and regulations<sup>1</sup> [shall also include provisions]<sup>1</sup>  
 30 for inclusive playgrounds designed with standards that generally  
 31 exceed those required by the "Americans with Disabilities Act of  
 32 1990" (42 U.S.C. s.12101 et seq.) and result in allowing the  
 33 inclusion of people with disabilities, including children and adults,  
 34 to the greatest degree feasible. The rules and regulations<sup>1</sup> for  
 35 inclusive playgrounds<sup>1</sup> shall require park and playground areas that  
 36 enable every visitor, regardless of medical condition, with the  
 37 chance to engage in the park and playground experience to the best  
 38 of the visitor's ability.

39 <sup>1</sup>**[b.]** Within 90 days of the effective date of P.L. , c. (C. )  
 40 (pending before the Legislature as this bill), and prior to proposing  
 41 a rule in the New Jersey Register, the Commissioner of Community  
 42 Affairs shall invite and receive recommendations regarding the  
 43 adoption of rules and regulations making playgrounds available to  
 44 persons of all ages and abilities from nonprofit organizations with a

**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:

<sup>1</sup>Assembly AWC committee amendments adopted June 6, 2016.

1 demonstrated expertise in the design and construction of inclusive  
2 playgrounds or with a demonstrated expertise in the promulgation  
3 and implementation of accessibility standards. The rules and  
4 regulations shall be proposed within 180 days of the effective date  
5 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
6 shall be adopted within one year of the effective date of P.L. ,  
7 c. (C. ) (pending before the Legislature as this bill), and shall  
8 address, among other things, the following issues as they relate to  
9 inclusive playgrounds:

10 (1) Parking.

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

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

15 (4) Restroom facilities, including how to ensure that families  
16 with older children or children with large adaptive equipment have  
17 a safe place to provide toileting needs for their children.

18 (5) Shade.

19 (6) Fencing.

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

23 (8) Quiet play areas.

24 (9) Universally accessible sand play and water play.

25 (10) Ramps and transfer points on playground equipment.

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

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

46 c. The department shall not be responsible for enforcement of  
47 any rules or regulations promulgated by this act, unless the

1 department is otherwise responsible for enforcement pursuant to  
2 P.L.1975, c.217 (C.52:27D-119 et seq.).  
3 (cf: P.L.1999, c.50, s.2)

4  
5 REPLACE SECTION 2 TO READ:

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

7 "Commissioner" means the Commissioner of Environmental  
8 Protection.

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

11 "Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165;  
12 P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265;  
13 P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007, c.119;  
14 P.L.<sup>1</sup>2009<sup>1</sup>, c.117; and any State general obligation bond act that  
15 may be approved after the date of enactment of P.L. , c.  
16 (pending before the Legislature as this bill) for the purpose of  
17 providing funding for the acquisition or development of lands for  
18 recreation and conservation purposes or for farmland preservation  
19 purposes.

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

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

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

35 b. One year after the effective date of P.L. , c. (C. )  
36 (pending before the Legislature as this bill), <sup>1</sup>except as provided  
37 for in subsection c. of this section, the commissioner shall deny any  
38 application submitted by a county seeking to acquire or develop  
39 lands for recreational and conservation purposes using Green Acres  
40 funds unless the requesting county has completed or commenced  
41 design and construction of at least one inclusive playground prior to  
42 the date of the request.

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

1 Green Acres funds requested by the county are to be used for the  
2 design and construction of an inclusive playground.

3 d.] the commissioner shall prioritize any application submitted  
4 by a county seeking to acquire or develop lands for recreational and  
5 conservation purposes using Green Acres funds, provided that the  
6 Green Acres funds requested by the county are to be used for the  
7 design and construction of an inclusive playground. The  
8 commissioner shall grant further prioritization to the applications  
9 submitted by counties that do not currently operate and maintain an  
10 inclusive playground, in an effort to ensure at least one such  
11 playground is operated and maintained by each county.

12 c.<sup>1</sup> The board of chosen freeholders of any county or any county  
13 park commission may partner with a nonprofit organization, with a  
14 demonstrated expertise in the design and construction of inclusive  
15 playgrounds, to assist with the design and construction of inclusive  
16 playgrounds. Any agreement entered into in accordance with this  
17 section shall not be subject to the requirements and provisions of  
18 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et  
19 seq.).

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

34  
35 4. This act shall take effect immediately.