

# 13:8C-27.1 and 40:12-30 et al.

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2018      **CHAPTER:** 104

**NJSA:** 13:8C-27.1 and 40:12-30 et al. (Jake's Law; requires DCA to promulgate completely inclusive playground regulations; incentivizes counties to design and construct completely inclusive playgrounds.)

**BILL NO:** A2187      (Substituted for S2138 (SCS))

**SPONSOR(S)** Greenwald and others

**DATE INTRODUCED:** 2/1/2018

**COMMITTEE:**      **ASSEMBLY:** Women & Children

**SENATE:** State Government, Wagering, Tourism & Historic Preservation

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**      **ASSEMBLY:** 6/25/2018

**SENATE:** 6/25/2018

**DATE OF APPROVAL:** 8/23/2018

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (First Reprint enacted) Yes

#### A2187

**SPONSOR'S STATEMENT:** (Begins on page 6 of introduced bill) Yes

**COMMITTEE STATEMENT:**      **ASSEMBLY:** Yes

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### S2138

**SPONSOR'S STATEMENT:** (Begins on page 6 of introduced bill) Yes

**COMMITTEE STATEMENT:**      **ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Murphy signs bill aimed at building inclusive playgrounds," Associated Press State Wire: New Jersey, August 23, 2018

"Murphy signs bill aimed at building inclusive playgrounds," Burlington County Times, August 24, 2018

RH/CL

P.L. 2018, CHAPTER 104, *approved August 23, 2018*

Assembly, No. 2187 (*First Reprint*)

1 AN ACT concerning inclusive playgrounds and designated as Jake's  
2 Law <sup>1</sup>[], amending P.L.1999, c.50, supplementing P.L.1999,  
3 c.152 (C.13:8C-1 et seq.), and amending and supplementing  
4 chapter 12 of Title 40 of the Revised Statutes **]** and amending and  
5 supplementing various parts of the statutory law <sup>1</sup>.  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

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

11 40:12-9. Any two or more municipalities in any county, <sup>1</sup>**[or]**<sup>1</sup>  
12 any municipality and the coterminous school district, <sup>1</sup>**[or]**<sup>1</sup> any  
13 municipality and county, or any municipality and county park  
14 commission may jointly acquire property for **[and]** <sup>1</sup>, <sup>1</sup> or improve,  
15 operate, and maintain <sup>1</sup>**[.]**<sup>1</sup> on existing property, any playgrounds,  
16 completely inclusive playgrounds, playfields, gymnasiums, public  
17 baths, swimming pools, or indoor recreation centers, and may  
18 appropriate money therefor. The municipality may pay over to the  
19 board of education of the school district <sup>1</sup>**[such]** any<sup>1</sup> money as  
20 may be so appropriated to be disbursed by the <sup>1</sup>**[said]**<sup>1</sup> board of  
21 education for any of <sup>1</sup>**[such]** these<sup>1</sup> joint purposes. The county or  
22 county park commission may pay over to the municipality <sup>1</sup>**[such]**  
23 any<sup>1</sup> money as may be <sup>1</sup>so<sup>1</sup> appropriated to be disbursed by the  
24 county or county park commission for any <sup>1</sup>**[such]** of these<sup>1</sup> joint  
25 purposes.

26 (cf: P.L.1948, c.61, s.1)  
27

28 <sup>1</sup>**[2.** Section 2 of P.L.1999, c.50 (C.52:27D-123.10) is amended  
29 to read as follows:

30 2. a. The Department of Community Affairs in consultation  
31 with the Department of Education shall promulgate rules and  
32 regulations for the design, installation, inspection and maintenance  
33 regarding all playgrounds operated by any governmental entity,  
34 nonprofit entity or private entity. Those regulations shall meet any  
35 standard of care imposed by law on playground operators, and shall  
36 be those guidelines and criteria which are contained in the  
37 Handbook for Public Playground Safety produced by the United  
38 States Consumer Products Safety Commission or any successor.

**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>Senate SSG committee amendments adopted June 14, 2018.

1 The rules and regulations shall include special provisions for  
2 playgrounds appropriate for children within the range of ages in day  
3 care settings. The rules and regulations shall not apply to  
4 completely inclusive playgrounds.

5 b. (1) The Department of Community Affairs, in consultation  
6 with the Department of Education, shall promulgate rules and  
7 regulations for the design, installation, inspection, and maintenance  
8 of completely inclusive playgrounds. Those regulations shall meet  
9 any standard of care imposed by law on playground operators, and  
10 shall be those guidelines and criteria which are contained in the  
11 Handbook for Public Playground Safety produced by the United  
12 States Consumer Products Safety Commission or any successor.  
13 The rules and regulations shall include special provisions for  
14 completely inclusive playgrounds appropriate for children within  
15 the range of ages in day care settings. Only playgrounds that meet  
16 these rules and regulations shall be deemed completely inclusive  
17 playgrounds for the purposes of P.L. , c. (C. ) (pending  
18 before the Legislature as this bill).

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

24 (2) "The Department of Community Affairs shall promulgate  
25 rules and regulations for completely inclusive playgrounds designed  
26 with standards that generally exceed those required by the  
27 "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et  
28 seq.) and result in allowing the inclusion of people with disabilities,  
29 including children and adults, to the greatest degree feasible. The  
30 rules and regulations for completely inclusive playgrounds shall  
31 require park and playground areas that enable every visitor,  
32 regardless of medical condition, with the chance to engage in the  
33 park and playground experience.

34 Within 90 days of the effective date of P.L. , c. (C. )  
35 (pending before the Legislature as this bill), and prior to proposing  
36 a rule in the New Jersey Register, the Commissioner of Community  
37 Affairs shall invite and receive recommendations regarding the  
38 adoption of rules and regulations making completely inclusive  
39 playgrounds available to persons of all ages and abilities from  
40 organizations, playground equipment manufacturers, playground  
41 safety consultants, and persons with disabilities with a demonstrated  
42 expertise in the design and construction of completely inclusive  
43 playgrounds or with a demonstrated expertise in the promulgation  
44 and implementation of accessibility standards. The rules and  
45 regulations shall be proposed within 180 days of the effective date  
46 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 shall be adopted within one year of the effective date of P.L. ,  
48 c. (C. ) (pending before the Legislature as this bill), and shall

1 address, among other things, the following issues as they relate to  
2 completely inclusive playgrounds:

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

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

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

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

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

16 (6) Fencing.

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

20 (8) Quiet play areas.

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

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

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

1 c. The department shall not be responsible for enforcement of  
2 any rules or regulations promulgated by this act, unless the  
3 department is otherwise responsible for enforcement pursuant to  
4 P.L.1975, c.217 (C.52:27D-119 et seq.).  
5 (cf: P.L.1999, c.50, s.2)】<sup>1</sup>

6  
7 <sup>1</sup>2. Section 1 of P.L.1999, c.50 (C.52:27D-123.9) is amended to  
8 read as follows:

9 1. For the purposes of **【this act】** P.L.1999, c.50 (C.52:27D-  
10 123.9 et seq.):

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

19 "Governmental Entity" means the State, its agencies and  
20 instrumentalities, a county or municipality, or any agency or  
21 instrumentality thereof, a school district, or any other similar public  
22 entity or agency, but not the federal government or its agencies and  
23 instrumentalities.

24 "Nonprofit entity" means a person or entity which operates a  
25 playground open to the public or open to users of a facility operated  
26 by the person or entity, and which is an exempt organization  
27 pursuant to section 9 of P.L.1966, c.30 (C.54:32B-9), the "Sales and  
28 Use Tax Act," but not a governmental entity or the federal  
29 government or its agencies and instrumentalities.

30 "Private entity" means any person or entity which operates a  
31 playground open to the public or open to users of a facility operated  
32 by the person or entity, but not a governmental entity, a nonprofit  
33 entity or the federal government or its agencies and  
34 instrumentalities.

35 "Playground" means an improved area designed, equipped, and  
36 set aside for play of six or more children which is not intended for  
37 use as an athletic playing field or athletic court, and shall include  
38 any play equipment, surfacing, fencing, signs, internal pathways,  
39 internal land forms, vegetation, and related structures.

40 "Supervision" means all general and specific supervision  
41 necessary to protect children from unreasonable risk of harm from  
42 site hazards, the acts of other children, or the use of the playground  
43 in a way that was not intended by the designer or manager of the  
44 playground. **【This act】** P.L.1999, c.50 (C.52:27D-123.9 et seq.)  
45 shall not expand or reduce existing standards of care to which a  
46 playground operator is held.<sup>1</sup>

47 (cf: P.L.1999, c.50, s.1)

1       <sup>1</sup>3. Section 2 of P.L.1999, c.50 (C.52:27D-123.10) is amended  
2 to read as follows:

3       2. a. The Department of Community Affairs, in consultation  
4 with the Department of Education, shall promulgate rules and  
5 regulations for the design, installation, inspection, and maintenance  
6 regarding all playgrounds operated by any governmental entity,  
7 nonprofit entity, or private entity. ~~【Those】~~ The regulations shall  
8 ~~【meet any standard of care imposed by law on playground~~  
9 ~~operators, and shall be those】~~ conform to the guidelines and criteria  
10 ~~【which are contained】~~ specified in the Handbook for Public  
11 Playground Safety produced by the United States Consumer  
12 Products Safety Commission or any successor and shall also meet  
13 any standard of care imposed by law on playground operators. The  
14 rules and regulations shall include special provisions for  
15 playgrounds appropriate for children within the range of ages in day  
16 care settings. The rules and regulations promulgated pursuant to  
17 this subsection shall not apply to completely inclusive playgrounds.

18       b. (1) The Department of Community Affairs, in consultation  
19 with the Department of Education, shall promulgate rules and  
20 regulations for the design, installation, inspection, and maintenance  
21 of completely inclusive playgrounds. Only playgrounds that meet  
22 the requirements of the rules and regulations promulgated pursuant  
23 to this subsection shall be deemed completely inclusive playgrounds  
24 for the purposes of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
25 Legislature as this bill). The rules and regulations shall:

26       (a) conform to the guidelines and criteria which are contained in  
27 the Handbook for Public Playground Safety produced by the United  
28 States Consumer Products Safety Commission or any successor, and  
29 meet any standard of care imposed by law on playground operators;

30       (b) include special provisions for completely inclusive  
31 playgrounds appropriate for children within the range of ages in day  
32 care settings;

33       (c) meet the standards of the "Americans with Disabilities Act  
34 of 1990" (42 U.S.C. s.12101 et seq.), result in the inclusion of  
35 people with disabilities, including children and adults, and require  
36 that park and playground areas enable every visitor, regardless of  
37 medical condition, to engage in the park and playground  
38 experience;

39       (d) meet the standards required under the barrier free subcode,  
40 adopted pursuant to the "State Uniform Construction Code Act,"  
41 P.L.1975, c.217 (C.52:27D-119 et seq.); and

42       (e) at a minimum, require accessible playground surfacing,  
43 access ramps leading up to and within play structures so that a  
44 minimum of 50 percent of the elevated play elements on all  
45 structures are accessible to people using wheeled mobility devices,  
46 and play structures designed to facilitate access by adults and  
47 children with disabilities.

1       (2) The rules and regulations promulgated pursuant to this  
2 subsection shall also include, but shall not be limited to, the  
3 following:

4       (a) the creation of accessible parking, including the installation  
5 of a curb cut, if only on-street parking is available;

6       (b) the creation of routes of access to playground and related  
7 facilities;

8       (c) the use of unitary surfacing in all areas of the playground to  
9 allow the maximum possible access to the playground for people  
10 using wheeled mobility devices;

11       (d) a process for determining which restroom facilities shall be  
12 adapted to ensure that families with older children or children with  
13 large adaptive equipment have a safe place to provide toileting  
14 needs for their children;

15       (e) shade requirements, which shall provide that a minimum of  
16 20 percent of the square footage of unitary surface and equipment  
17 of the playground is shaded by natural or other means;

18       (f) fencing requirements;

19       (g) the use of play components that address the physical,  
20 sensory, cognitive, social, emotional, imaginative, and  
21 communication needs of those who will visit the playground;

22       (h) the creation of quiet play areas; and

23       (i) the creation of ramps and transfer points on playground  
24 equipment.

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

33       (4) Within 90 days of the effective date of P.L. , c. (C. )  
34 (pending before the Legislature as this bill), and prior to proposing  
35 a rule in the New Jersey Register, the Commissioner of Community  
36 Affairs shall invite and receive recommendations regarding the  
37 adoption of rules and regulations making completely inclusive  
38 playgrounds available to persons of all ages and abilities from  
39 organizations, playground equipment manufacturers, playground  
40 safety consultants, and persons with disabilities with a  
41 demonstrated expertise in the design and construction of completely  
42 inclusive playgrounds or with a demonstrated expertise in the  
43 implementation of accessibility standards. The commissioner shall  
44 adopt the recommendations, unless the commissioner determines  
45 the recommendations are inconsistent with the intent and purpose of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
47 are otherwise unfeasible. A recommendation shall not be  
48 considered unfeasible if it is demonstrated that the recommendation



1 may be implemented through the use of commercially available  
 2 equipment. The rules and regulations required by this subsection  
 3 shall be proposed within 180 days of the effective date of P.L. ,  
 4 c. (C. ) (pending before the Legislature as this bill), and shall  
 5 be adopted within one year of the effective date of P.L. ,  
 6 c. (C. ) (pending before the Legislature as this bill).

7 c. The department shall not be responsible for enforcement of  
 8 any rules or regulations promulgated by **【this act】** P.L.1999, c.50  
 9 (C.52:27D-123.9 et seq.), unless the department is otherwise  
 10 responsible for enforcement pursuant to P.L.1975, c.217 (C.52:27D-  
 11 119 et seq.).<sup>1</sup>

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

13

14 <sup>1</sup>**【3.】**4.<sup>1</sup> (New section) a. As used in this section:

15 "Commissioner" means the Commissioner of Environmental  
 16 Protection.

17 <sup>1</sup>"Completely inclusive playground" means a playground  
 18 designated for public use for children two to five years of age or  
 19 five to twelve years of age, with an accessible playground surface, a  
 20 playground surface inspection and maintenance schedule consistent  
 21 with the standards detailed in the "Americans with Disabilities Act  
 22 of 1990" (42 U.S.C. s.12101 et seq.), and designed in accordance  
 23 with the rules and regulations adopted pursuant to subsection b. of  
 24 section 2 of P.L.1999, c.50 (C.52:27D-123.10).<sup>1</sup>

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

27 "Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165;  
 28 P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265;  
 29 P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007, c.119;  
 30 P.L.2009, c.117; and any State general obligation bond act that may  
 31 be approved after the date of enactment of P.L. ,  
 32 c. (pending before the Legislature as this bill) for the purpose of  
 33 providing funding for the acquisition or development of lands for  
 34 recreation and conservation purposes or for farmland preservation  
 35 purposes.

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

39 <sup>1</sup>**【**"Completely inclusive playground" means a playground  
 40 designated for public use for children two to five years of age or  
 41 five to twelve years of age, with an accessible playground surface, a  
 42 playground surface inspection and maintenance schedule consistent  
 43 with the standards detailed in the "Americans with Disabilities Act  
 44 of 1990" (42 U.S.C. s.12101 et seq.), and designed in accordance  
 45 with the rules and regulations adopted pursuant to section 2 of  
 46 P.L.1999, c.50 (C.52:27D-123.10).**】**<sup>1</sup>

1 "Recreation and conservation purposes" means the use of lands  
 2 for beaches, biological or ecological study, boating, camping,  
 3 fishing, forests, greenways, hunting, natural areas, parks,  
 4 playgrounds, protecting historic properties, water reserves,  
 5 watershed protection, wildlife preserves, active sports, or a similar  
 6 use for either public outdoor recreation or conservation of natural  
 7 resources, or both.

8 b. **1**~~One~~ Commencing one<sup>1</sup> year after the effective date of  
 9 P.L. , c. (C. ) (pending before the Legislature as this bill),  
 10 the commissioner shall prioritize any application submitted by a  
 11 county seeking to acquire or develop lands for recreational and  
 12 conservation purposes using Green Acres funds, provided that the  
 13 Green Acres funds requested by the county are to be used for the  
 14 design and construction of a completely inclusive playground  
 15 **1**~~pursuant to section 2 of P.L. , c. (C. ) (pending before~~  
 16 ~~the Legislature as this bill)~~<sup>1</sup>. The commissioner shall grant further  
 17 prioritization to the applications submitted by counties that do not  
 18 currently operate and maintain **1**~~an~~ a completely<sup>1</sup> inclusive  
 19 playground, **1**~~in an effort~~<sup>1</sup> to ensure at least one completely<sup>1</sup>  
 20 inclusive playground is operated and maintained by each county.

21 c. The board of chosen freeholders of any county or any county  
 22 park commission may partner with **1**~~a~~<sup>1</sup> nonprofit **1**~~organization~~<sup>1</sup>  
 23 organizations, playground equipment manufacturers, playground  
 24 safety consultants, and persons with disabilities **1**~~,~~<sup>1</sup> with a  
 25 demonstrated expertise in the design and construction of  
 26 completely<sup>1</sup> inclusive playgrounds, to assist with the design and  
 27 construction of completely inclusive playgrounds. Any agreement  
 28 entered into in accordance with this section shall not be subject to  
 29 the requirements and provisions of the "Local Public Contracts  
 30 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

31 d. **1**~~The~~ If the<sup>1</sup> board of chosen freeholders of any county or  
 32 any county park commission **1**~~may~~<sup>1</sup> jointly **1**~~enter~~ enters<sup>1</sup> into  
 33 an agreement with a municipality<sup>1</sup> pursuant to **1**~~section 1 of~~<sup>1</sup>  
 34 P.L.1948, c.61 (**1**~~R.S.40:12-9~~ **1**~~)~~<sup>1</sup> for the construction and  
 35 maintenance of a completely inclusive playground **1**~~. For~~ , for<sup>1</sup>  
 36 purposes of the prioritization of an application submitted by a  
 37 county pursuant to subsection b. of this<sup>1</sup> section **1**~~3~~<sup>1</sup>  
 38 P.L. , c (C. ) (pending before the Legislature as this bill)<sup>1</sup>,  
 39 a completely inclusive playground constructed and maintained  
 40 pursuant to such an agreement shall be operated and maintained by  
 41 the county in which it is located.

42  
 43 **1**~~4.~~ 5.<sup>1</sup> (New section) In the event that State funds are made  
 44 available to counties for the purpose of constructing completely<sup>1</sup>  
 45 inclusive playgrounds, as defined in section 1 of P.L.1999, c.50<sup>1</sup>  
 46 (C.52:27D-123.9).<sup>1</sup> every county receiving funding shall be

1 required to construct and maintain at least one 'completely'  
2 inclusive playground designed in accordance with the rules and  
3 regulations adopted pursuant to 'subsection b. of' section 2 of  
4 P.L.1999, c.50 (C.52:27D-123.10). The board of chosen  
5 freeholders of any county or any county park commission may  
6 partner with organizations, playground equipment manufacturers,  
7 playground safety consultants, and persons with disabilities, with a  
8 demonstrated expertise in the design and construction of  
9 'completely' inclusive playgrounds, to assist with the design and  
10 construction of 'completely' inclusive playgrounds. Any  
11 agreement entered into in accordance with this section shall not be  
12 subject to the requirements and provisions of the "Local Public  
13 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

14

15 **'[5.] 6.'** This act shall take effect immediately.

16

17

18

19

20 Jake's Law; requires DCA to promulgate completely inclusive  
21 playground regulations; incentivizes counties to design and  
22 construct completely inclusive playgrounds.

# ASSEMBLY, No. 2187

## STATE OF NEW JERSEY 218th LEGISLATURE

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 Huttle  
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.

# ASSEMBLY WOMEN AND CHILDREN COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2187

# STATE OF NEW JERSEY

DATED: FEBRUARY 1, 2018

The Assembly Women and Children Committee reports favorably on Assembly Bill No. 2187.

This bill creates “Jake’s Law” concerning completely inclusive playgrounds designed to accommodate and include adults and children with disabilities.

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

- Rules and regulations for the design, installation, inspection, and maintenance of completely inclusive playgrounds. The regulations would be required to: (1) meet any standard of care imposed by law on playground operators; (2) 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; and (3) include special provisions for completely inclusive playgrounds appropriate for children within the range of ages in day care settings.
- Rules and regulations for completely inclusive playgrounds designed with standards that generally exceed those required by the federal “Americans with Disabilities Act of 1990” (U.S.C. s.12101 et seq.) and which result in allowing the inclusion of people with disabilities, irrespective of medical condition.

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

The bill requires the commissioner to prioritize any applications submitted by counties seeking to acquire or develop lands for recreational and conservation purposes using Green Acres funds if the funds will be used for the design and construction of a completely inclusive playground. The commissioner would be required to grant further prioritization to applications submitted by counties that do not operate and maintain an inclusive playground in order to ensure at least one such playground is operated and maintained by each county.

Additionally, the bill requires the Commissioner of Environmental Protection to 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 would 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 such playground is operated and maintained by each county.

Further, bill authorizes the board of chosen freeholders of any county or any county park commission to jointly enter into an agreement for the construction and maintenance of a completely inclusive playground. For purposes of the prioritization of an application submitted by a county pursuant to the provisions of the bill, a completely inclusive playground constructed and maintained pursuant to such an agreement would be operated and maintained by the county in which it is located.

Finally, bill provides that in addition to counties, as provided under current law, any municipality or county park commission may jointly acquire property, or improve, operate, and maintain on existing property, any playgrounds, completely inclusive playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers. The bill further authorizes a county or county park commission to pay over to a municipality any money as may be appropriated to be disbursed by the county or county park commission for such joint purpose.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &  
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 2187**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 14, 2018

The Senate State Government, Wagering Tourism and Historic Preservation Committee reports favorably and with committee amendments Assembly Bill No. 2187.

As amended, this bill would create “Jake’s Law” concerning completely inclusive playgrounds designed to accommodate and include adults and children with disabilities. As used in the bill, the term “completely inclusive playground” refers to a playground designated for public use for children two to five years of age or five to twelve years of age, that meet certain accessibility requirements.

As amended by the committee, the bill would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations for the design, installation, inspection and maintenance of completely inclusive playgrounds. These rules and regulations would include provisions that accomplish the following:

- meet any standard of care imposed by law on playground operators, and comply with the guidelines and criteria contained in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission or any successor;
- include special provisions for completely inclusive playgrounds appropriate for children within the range of ages in day care settings;
- meet the standards of the federal “Americans with Disabilities Act of 1990” (U.S.C. s.12101 et seq.) and which result in allowing the inclusion of people with disabilities, irrespective of medical condition;
- meet the standards of the barrier free subcode, adopted pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.);
- accessible playground surfacing, access ramps leading up to and within play structures, and play structures designed to facilitate access by adults and children with disabilities.

At a minimum, the rules and regulations would also require that a completely inclusive playground contain accessible playground surfacing, access ramps leading up to and within play structures, and play structures designed to facilitate access by adults and children with disabilities. The rules and regulations would address various issues including, but not limited to, parking, restroom facilities, fencing, surfacing, and shade areas.

The bill provides that within 90 days of enactment, and prior to proposing a rule in the New Jersey Register, the Commissioner of Community Affairs will be required to invite and receive recommendations from organizations, playground equipment manufacturers, playground safety consultants, and persons with disabilities with a demonstrated expertise in the design and construction of completely inclusive playgrounds or with a demonstrated expertise in the promulgation and implementation of accessibility standards.

The bill requires the commissioner to prioritize any applications submitted by counties seeking to acquire or develop lands for recreational and conversation purposes using Green Acres funds if the funds will be used for the design and construction of a completely inclusive playground. The commissioner would be required to grant further prioritization to applications submitted by counties that do not operate and maintain an inclusive playground in order to ensure at least one such playground is operated and maintained by each county.

Additionally, the bill requires the Commissioner of Environmental Protection to 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 would 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 such playground is operated and maintained by each county.

Further, bill authorizes the board of chosen freeholders of any county or any county park commission to jointly enter into an agreement for the construction and maintenance of a completely inclusive playground. For purposes of the prioritization of an application submitted by a county pursuant to the provisions of the bill, a completely inclusive playground constructed and maintained pursuant to such an agreement would be operated and maintained by the county in which it is located.

Finally, bill provides that in addition to counties, as provided under current law, any municipality or county park commission may jointly acquire property, or improve, operate, and maintain on existing property, any playgrounds, completely inclusive playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor

recreation centers. The bill further authorizes a county or county park commission to pay over to a municipality any money as may be appropriated to be disbursed by the county or county park commission for such joint purpose.

COMMITTEE AMENDMENTS:

The amendments consist of technical changes to enhance readability and correct language inconsistencies throughout the bill. The amendments also reorder various provisions added to section 2 of P.L.1999, c.50 (C.52:27D-123.10). The amendments also create a new section 2, in order to add a definition of “completely inclusive playground” to P.L.1999, c.50 (C.52:27D-123.9 et seq.), a statute concerning playground safety that this bill amends.



**SENATE, No. 2138**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED MARCH 5, 2018

**Sponsored by:**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

**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.



S2138 BEACH

2

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.

S2138 BEACH

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  
39 P.L. , c. (C. ) (pending before the Legislature as this bill),  
40 and shall address, among other things, the following issues as they  
41 relate to 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.

S2138 BEACH

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

**S2138 BEACH**

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  
8 P.L. , c. (pending before the Legislature as this bill) for the  
9 purpose of providing funding for the acquisition or development of  
10 lands for recreation and conservation purposes or for farmland  
11 preservation 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  
37 P.L. , c. (C. ) (pending before the Legislature as this bill).  
38 The commissioner shall grant further prioritization to the  
39 applications submitted by counties that do not currently operate and  
40 maintain an inclusive playground, in an effort to ensure at least one  
41 inclusive 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

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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

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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

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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.



SENATE STATE GOVERNMENT, WAGERING, TOURISM &  
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2138**

**STATE OF NEW JERSEY**

DATED: JUNE 14, 2018

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2138.

This substitute bill would create “Jake’s Law” concerning completely inclusive playgrounds designed to accommodate and include adults and children with disabilities. As used in the bill, the term “completely inclusive playground” refers to a playground designated for public use for children two to five years of age or five to twelve years of age, that meet certain accessibility requirements.

The substitute bill would require the Department of Community Affairs, in consultation with the Department of Education, to promulgate rules and regulations for the design, installation, inspection and maintenance of completely inclusive playgrounds. These rules and regulations would include provisions that accomplish the following:

- meet any standard of care imposed by law on playground operators, and comply with the guidelines and criteria contained in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission or any successor;
- include special provisions for completely inclusive playgrounds appropriate for children within the range of ages in day care settings;
- meet the standards of the federal “Americans with Disabilities Act of 1990” (U.S.C. s.12101 et seq.) and which result in allowing the inclusion of people with disabilities, irrespective of medical condition;
- meet the standards of the barrier free subcode, adopted pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.);
- accessible playground surfacing, access ramps leading up to and within play structures, and play structures designed to facilitate access by adults and children with disabilities.

At a minimum, the rules and regulations would also require that a completely inclusive playground contain accessible playground surfacing, access ramps leading up to and within play structures, and

play structures designed to facilitate access by adults and children with disabilities. The rules and regulations would address various issues including, but not limited to, parking, restroom facilities, fencing, surfacing, and shade areas.

The bill provides that within 90 days of enactment, and prior to proposing a rule in the New Jersey Register, the Commissioner of Community Affairs will be required to invite and receive recommendations from organizations, playground equipment manufacturers, playground safety consultants, and persons with disabilities with a demonstrated expertise in the design and construction of completely inclusive playgrounds or with a demonstrated expertise in the promulgation and implementation of accessibility standards.

The bill requires the commissioner to prioritize any applications submitted by counties seeking to acquire or develop lands for recreational and conversation purposes using Green Acres funds if the funds will be used for the design and construction of a completely inclusive playground. The commissioner would be required to grant further prioritization to applications submitted by counties that do not operate and maintain an inclusive playground in order to ensure at least one such playground is operated and maintained by each county.

Additionally, the bill requires the Commissioner of Environmental Protection to 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 would 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 such playground is operated and maintained by each county.

Further, bill authorizes the board of chosen freeholders of any county or any county park commission to jointly enter into an agreement for the construction and maintenance of a completely inclusive playground. For purposes of the prioritization of an application submitted by a county pursuant to the provisions of the bill, a completely inclusive playground constructed and maintained pursuant to such an agreement would be operated and maintained by the county in which it is located.

Finally, bill provides that in addition to counties, as provided under current law, any municipality or county park commission may jointly acquire property, or improve, operate, and maintain on existing property, any playgrounds, completely inclusive playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers. The bill further authorizes a county or county park commission to pay over to a municipality any money as may be appropriated to be disbursed by the county or county park commission for such joint purpose.



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# Newark, N.J.

## Governor Murphy Signs "Jake's Law"

08/23/2018

**TRENTON** – Today, Governor Phil Murphy signed A2187 into law. Known as “Jake’s Law,” the bill incentivizes counties to build inclusive playgrounds for children and adults with disabilities. The term “Jake’s Law” refers to Jake’s Place, a playground in Cherry Hill, which was created in honor of Jacob Cummings-Nasto, who passed away due to complications of heart surgery at the age of two and a half. He was born with hypoplastic heart syndrome and the park was a preferred place for physical therapy.

“No child should lack access to playgrounds based on their physical abilities,” **said Governor Murphy**. “I am proud that New Jersey is leading by example as an inclusive state through this act, ensuring our great State is a place that welcomes all 9 million of us.”

“The Board and donors of Build Jake’s Place is grateful to Governor Murphy for signing “Jake’s Law”, ensuring thousands of New Jersey children, of every ability, a place to play,” **said Jim Cummings, Jacob’s grandfather and board member at Build Jake’s Place**. “Originally sponsored by Senator Beach and Majority Leader Greenwald, this law places New Jersey in the forefront of a national movement, by seeking to provide children with disabilities inclusive playgrounds in every county of the state. Build Jake’s Place has been in the forefront of this effort, erecting Jake’s Place Cherry Hill playground, named one of the ten best all-access playgrounds in the country, and opening Jake’s Place Delran this fall. It is hoped, within the foreseeable future, every play opportunity in the state will include every child of every ability.”

Counties that submit applications to build inclusive playgrounds similar to Jake’s Place will be prioritized in Green Acre funding. The Department of Community Affairs, in consultation with the Department of Education, will create rules and regulations for design, installation, inspection and maintenance of the inclusive playgrounds. The rules and regulations will be implemented to exceed the requirements established by the federal Americans with Disabilities Act and ensure that these inclusive playgrounds are accessible for children of all physical and mental abilities.

Bill sponsors include Assembly Majority Leader Louis Greenwald, Assembly members Pamela Lampitt and Gabriela Mosquera, and Senators James Beach and Nilsa Cruz-Perez.

"Inclusive playgrounds provide opportunities for play that are not available at most playgrounds for children and adults with disabilities. Many parks, even those that are Americans with Disabilities Act compliant, do not have proper wheelchair access and equipment suitable for all visitors," **said Majority Leader Greenwald**. "This legislation was inspired by a boundless playground in my district, Jake's Place, which was built in honor of a young boy, Jacob Myles Cummings-Nasto, who was born with a rare cardiac condition. I am honored to have been able to work on this legislation with Jake's grandparents, Lynn and Jim Cummings, to ensure all children like Jake have a place to play."

“Jake’s Law fulfills a dream of providing all of New Jersey’s children with boundless play,” **said Senator Beach**. “Inclusive playgrounds like Jake’s Place are joyful places where children of all backgrounds, ages and physical abilities play together without limitations. I applaud Governor Murphy for signing Jake’s Law today and working to

ensure that inclusive playgrounds will be in every county of our wonderful state."



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