

House Bill 382 (COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 171st, Lindsey of the 54th, Ehrhart of the 36th, Allison of the 8th, Dudgeon of the 25th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to
2 general provisions for torts, so as to limit liability for a governing authority of a school that
3 enters into a recreational joint-use agreement with a public or private entity; to provide for
4 definitions; to provide for specifications for a recreational joint-use agreement; to provide
5 for applicability; to provide an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
10 provisions for torts, is amended by adding a new Code section to read as follows:

11 "51-1-52.

12 (a) As used in this Code section, the term:

13 (1) 'Facilities' means a school's buildings, fixtures, and equipment, including, but not
14 limited to, classrooms, libraries, rooms and space for physical education, space for fine
15 arts, restrooms, specialized laboratories, cafeterias, media centers, building equipment,
16 building fixtures, furnishings, gardens, tracks, stadiums, and other facilities or portions
17 of facilities used primarily for athletic competition.

18 (2) 'Public entity' means an entity other than the state or its departments, institutions,
19 agencies, commissions, councils, authorities, boards, bureaus, or any other entity of the
20 state.

21 (3) 'Recreational joint-use agreement' means a written agreement between the governing
22 authority of a school and a public entity or private entity authorizing such entity to access
23 the facilities of a school under the governing authority's jurisdiction for the purposes of
24 conducting or engaging in recreational, physical, or performing arts activity.

25 (4) 'School' means any public pre-kindergarten, elementary school, or secondary school.

26 (b) A recreational joint-use agreement shall:

- 27 (1) Set forth the terms and conditions of the use of a facility;
28 (2) Include a hold harmless provision in favor of the governing authority;
29 (3) Be revocable at any time by the governing authority of the school;
30 (4) Require the public entity or private entity to maintain and provide proof of a
31 minimum of \$1 million in liability insurance coverage applicable to the use of the
32 facilities and effective for the duration of such agreement; and
33 (5) Provide a citation that such agreement shall be governed by this Code section.
34 (c) The governing authority of a school that enters into a recreational joint-use agreement
35 which complies with subsection (b) of this Code section shall not be deemed to have
36 waived its sovereign immunity as to damages to persons or property arising out of or
37 resulting from such recreational joint-use agreement.
38 (d) Code Section 51-12-33 shall not apply to claims for civil damages arising from the use
39 of a school's facilities pursuant to a recreational joint-use agreement.
40 (e) This Code section shall apply to causes of action arising on or after July 1, 2013."

41 **SECTION 2.**

42 This Act shall become effective on July 1, 2013.

43 **SECTION 3.**

44 All laws and parts of laws in conflict with this Act are repealed.