

HB 431

2012

1 A bill to be entitled
2 An act relating to the joint use of public school
3 facilities; creating s. 1013.105, F.S.; providing
4 legislative findings; providing definitions;
5 encouraging each district school board to develop
6 written policies to promote public access to outdoor
7 recreation and sports facilities on school property
8 and increased joint-use agreements; providing duties
9 of the Department of Education; creating s. 768.072,
10 F.S.; providing for limitation of liability for a
11 district school board that allows public access or
12 enters into a joint-use agreement except in instances
13 of gross negligence; defining the term "gross
14 negligence"; providing an effective date.

15
16 WHEREAS, every year, an estimated 300,000 people in the
17 United States die due to being overweight or obese, and

18 WHEREAS, since the 1970's, the number of overweight
19 children in Florida has increased by 300 percent, and

20 WHEREAS, overweight or obese children experience the same
21 risk factors associated with heart disease in adults, such as
22 high blood pressure, high cholesterol levels, and Type 2
23 diabetes, once referred to as adult-onset diabetes, and

24 WHEREAS, studies have shown that up to 80 percent of
25 overweight adolescents become overweight adults, and

26 WHEREAS, 14 percent of deaths from cancer in men and 20
27 percent of deaths from cancer in women are due to obesity, and

HB 431

2012

28 WHEREAS, the annual economic impact of obesity on the
 29 United States' health care system is estimated by the Centers
 30 for Disease Control and Prevention at \$147 billion, and

31 WHEREAS, a recent study by a major insurance carrier stated
 32 that if current trends in obesity are not abated, 50 percent of
 33 Americans will have diabetes by 2020, which will cost the health
 34 care system approximately \$3.35 trillion, and

35 WHEREAS, many communities, especially those that are more
 36 urbanized, have few or no public parks or playground spaces, and

37 WHEREAS, opening public school recreation and sports
 38 facilities to the public provides an immediate increase in
 39 places where children and families can exercise and play, NOW,
 40 THEREFORE,

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 42 Be It Enacted by the Legislature of the State of Florida:

43
 44 Section 1. Section 1013.105, Florida Statutes is created
 45 to read:

46 1013.105 Joint use of public school facilities.-

47 (1) The Legislature finds that greater access to
 48 recreation and sports facilities is needed to reduce the impact
 49 of obesity on personal health and health care expenditures. The
 50 Legislature further finds that public schools are equipped with
 51 taxpayer-funded playgrounds, fields, tracks, courts, and other
 52 outdoor recreation and sports facilities that offer easily
 53 accessible opportunities for physical activity for residents of
 54 the community regardless of income.

55 (2) As used in this section, the term:

HB 431

2012

56 (a) "Joint-use agreement" means a written agreement
57 between a district school board and a local government or
58 private organization setting forth the terms and conditions for
59 the shared use of outdoor public school property.

60 (b) "Public access" means free access to the outdoor
61 recreation and sports facilities on public school property
62 during nonschool hours and when a school-sponsored or school-
63 related activity is not occurring.

64 (3) Each district school board is encouraged to develop
65 written policies to promote public access and increased joint-
66 use agreements. Public access policies should outline the
67 outdoor recreation and sports facilities that are open to the
68 public and the hours they are open.

69 (4) The Department of Education shall:

70 (a) Develop a model joint-use agreement and post the model
71 agreement on its website.

72 (b) Post on its website links to or copies of district
73 school board joint-use agreements submitted to the department by
74 each district school board entering into a joint-use agreement.

75 (c) Develop criteria for the acceptance of grants for
76 implementing joint-use agreements.

77 Section 2. Section 768.072, Florida Statutes, is created
78 to read:

79 768.072 Limitation on public school premises liability.—

80 (1) A district school board that allows public access or
81 enters into a joint-use agreement pursuant to s. 1013.105 shall
82 gain a presumption against liability for personal injury and
83 nonschool property damage in all instances except where injury

HB 431

2012

84 or damage was due to gross negligence. This section does not
85 change the presumption of liability for injury or damage that
86 occurred during school hours or during a school-related or
87 school-sponsored activity.

88 (2) As used in this section, the term "gross negligence"
89 means that the defendant's conduct was so reckless or wanting in
90 care that it constituted a conscious disregard or indifference
91 to the life, safety, or rights of persons exposed to such
92 conduct.

93 Section 3. This act shall take effect July 1, 2012.