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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/07/2012	.	
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	.	

The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

1013.105 Joint use of public school facilities.-

(1) The Legislature finds that greater access to recreation and sports facilities is needed to reduce the impact of obesity on personal health and health care expenditures. The Legislature further finds that public schools are equipped with taxpayer-funded playgrounds, fields, tracks, courts, and other outdoor



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13 recreation and sports facilities that offer easily accessible
14 opportunities for physical activity for residents of the
15 community.

16 (2) Each district school board is encouraged to:

17 (a) Adopt written policies to promote public access to the
18 outdoor recreation and sports facilities on public school
19 property during nonschool hours when a school-sponsored or
20 school-related activity is not occurring. A public access policy
21 should outline the outdoor recreation and sports facilities that
22 are open to the public and the hours the facilities are open.

23 (b) Increase the number of joint-use agreements entered
24 into with a local government or a private organization. A joint-
25 use agreement should set forth the terms and conditions for the
26 shared use of outdoor recreation and sports facilities on public
27 school property.

28 (c) Develop and adopt policies and procedures providing for
29 an appeal process in which a party seeking to enter into a
30 joint-use agreement with a school district pursuant to this
31 section may file an appeal with the district school
32 superintendent when the negotiations for such joint-use
33 agreement fail.

34
35 Within 30 days after adopting a public access policy or entering
36 into a joint-use agreement, a district school board must submit
37 a copy of the policy or agreement to the Department of
38 Education.

39 (3) The Department of Education shall:

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



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42 (b) Post on its website links to or copies of all district
43 school board public access policies and joint-use agreements
44 submitted to the department by a district school board.

45 (c) Develop criteria for the acceptance of grants for
46 implementing joint-use agreements and post the criteria on its
47 website.

48 Section 2. Section 768.072, Florida Statutes, is created to
49 read:

50 768.072 Limitation on public school premises liability.—

51 (1) A district school board is not liable for civil damages
52 for personal injury, property damage, or death that occurs on a
53 public school property that the district school board has opened
54 up to the public, through public access policies or joint-use
55 agreements under s. 1013.105, unless gross negligence or
56 intentional misconduct on the part of the district school board
57 is a proximate cause of the injury, damage, or death.

58 (2) As used in this section, the term "gross negligence"
59 means the intentional failure to perform a manifest duty in
60 reckless disregard of the consequences as affecting the life or
61 property of another.

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

63
64 ===== T I T L E A M E N D M E N T =====

65 And the title is amended as follows:

66 Delete everything before the enacting clause
67 and insert:

68 A bill to be entitled
69 An act relating to the joint use of public school
70 facilities; creating s. 1013.105, F.S.; providing



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71 legislative findings; encouraging each district school
72 board to adopt written policies to promote public
73 access to outdoor recreation and sports facilities on
74 school property, increase the number of joint-use
75 agreements, and develop and adopt policies and
76 procedures for an appeal process when negotiations for
77 a joint-use agreement fail; providing duties of
78 district school boards and the Department of
79 Education; creating s. 768.072, F.S.; providing
80 immunity from liability for a district school board
81 that adopts public access policies or enters into a
82 joint-use agreement except in instances of gross
83 negligence or intentional misconduct; defining the
84 term "gross negligence"; providing an effective date.