

House Bill 382 (AS PASSED HOUSE AND SENATE)

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 private entity; to provide for definitions;
4 to provide for specifications for a recreational joint-use agreement; to provide for
5 applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

10 "51-1-52.

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

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

17 (2) 'Recreational joint-use agreement' means a written agreement between the governing
18 authority of a school and a private entity authorizing such entity to access the facilities
19 of a school under the governing authority's jurisdiction for the purposes of conducting or
20 engaging in recreational, physical, or performing arts activity.

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

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

23 (1) Set forth the terms and conditions of the use of a facility;

24 (2) Include a hold harmless provision in favor of the governing authority;

25 (3) Be revocable at any time by the governing authority of the school;

26 (4) Require the private entity to maintain and provide proof of a minimum of \$1 million
27 in liability insurance coverage applicable to the use of the facilities and effective for the
28 duration of such agreement; and

29 (5) Provide a citation that such agreement shall be governed by this Code section.

30 (c) The governing authority of a school that enters into a recreational joint-use agreement
31 which complies with subsection (b) of this Code section shall not be deemed to have
32 waived its sovereign immunity as to damages to persons or property arising out of or
33 resulting from such recreational joint-use agreement.

34 (d) Code Section 51-12-33 shall not apply to claims for civil damages arising from the use
35 of a school's facilities pursuant to a recreational joint-use agreement.

36 (e) This Code section shall apply to causes of action arising on or after July 1, 2013."

37 **SECTION 2.**

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

39 **SECTION 3.**

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