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Chapter No. 475
12/HR07/R647SG
jcb / jo

HOUSE BILL NO. 540

Originated in House _____ Clerk

HOUSE BILL NO. 540

AN ACT TO AUTHORIZE LOCAL SCHOOL BOARDS TO ALLOW SCHOOL PROPERTY TO BE USED BY THE PUBLIC DURING NONSCHOOL HOURS FOR RECREATION AND SPORTS; TO EXPRESS CERTAIN LEGISLATIVE FINDINGS REGARDING OBESITY AND ASSOCIATED HEALTH RISKS; TO DEFINE CERTAIN TERMS; TO LIMIT THE LIABILITY OF SCHOOL DISTRICTS AND SCHOOL DISTRICT EMPLOYEES FOR CLAIMS ARISING FROM THE PUBLIC'S USE OF SCHOOL PROPERTY AND FACILITIES FOR RECREATION AND SPORTS; TO ENCOURAGE SCHOOL DISTRICTS TO ENTER INTO SHARED USE AGREEMENTS WITH COMMUNITY ORGANIZATIONS AND LOCAL GOVERNMENTAL ENTITIES FOR PURPOSES OF RECREATION AND SPORTS; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION, IN CONSULTATION WITH THE STATE DEPARTMENT OF HEALTH, TO DEVELOP A BEST PRACTICES TOOL KIT RELATING TO SHARED USE AGREEMENTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Legislature finds the following:

(a) The Centers for Disease Control and Prevention has released studies documenting:

(i) Overweight and obese children experience the same risk factors that are associated with heart disease in adults, including high blood pressure, high cholesterol levels and Type 2 diabetes, once referred to as adult-onset diabetes;

(ii) Every year, an estimated three hundred thousand (300,000) people in America die because of diseases caused by being overweight and obese;

(iii) Studies have shown that up to eighty percent (80%) of overweight adolescents become overweight adults;

(iv) Fourteen percent (14%) of deaths from cancer in men and twenty percent (20%) of cancer deaths in women are because of being overweight and obese; and

(v) The annual economic impact in the United States from obesity on our health care system is estimated at One Hundred Forty-seven Billion Dollars ($147,000,000,000.00);

(b) According to the National Survey of Children's Health, Mississippi's childhood obesity rates are the highest in the nation;

(c) A recent study by a major insurance carrier stated that fifty percent (50%) of all Americans will have diabetes by the year 2020, costing the health care system approximately Three Trillion Three Hundred Fifty Billion Dollars ($3,350,000,000,000.00) if current trends in obesity are not abated; and

(d) According to the Journal of Nutrition Education and Behavior, adults with a household member who participated in a community garden consumed fruits and vegetables one and four-tenths (1-4/10) more times per day than those who did not participate, and they were three and one-half (3-1/2) times more likely to consume fruits and vegetables at least five (5) times daily.

(2) Therefore, the Legislature declares that the intent of this act is to make school property available to community members during nonschool hours for recreational activities in order to support active living, reduce obesity, reduce health care costs associated with obesity, increase community safety, maximize community resources, and promote community support for schools.

SECTION 2. As used in this act, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Recreation" means any indoor or outdoor game or activity, either organized or unorganized, undertaken for exercise, relaxation, diversion, sport or pleasure.

(b) "School property" means all indoor or outdoor structures, facilities and land, whether owned, rented or leased by the school or school district.

(c) "Sport" means an activity requiring physical exertion and skill and which, by its nature and organization, is competitive and generally accepted as being a sport.

(d) "Shared use agreement" means a legal agreement that defines the rights and responsibilities of the school district and another organization or governmental agency for use of the school facilities for recreation or other purpose of importance to the community.

(e) "Local government entity" means any county, municipality, school district, public hospital or other political subdivision of the state.

SECTION 3. (1) The school board of a school district may adopt a policy allowing the public use of indoor or outdoor school property during nonschool hours for purposes of recreation or sport. The school district must ensure that this use of school facilities by the public does not interfere with the use of those facilities for school purposes.

(2) School districts and school district employees may not be held liable for any claim resulting from a loss or injury arising from the use of indoor or outdoor school property or facilities made available for public recreation or sport. However, this act does not relieve a school district or school district employee of liability that otherwise exists for:

(a) Deliberate, willful or malicious injury to persons or property by a school district employee; or

(b) Injury resulting from a lack of proper maintenance or upkeep of a piece of equipment or facilities, unless the school district or school district employee had attempted to restrict access to a piece of equipment or facilities area in need of repair which would endanger a student during normal school hours.

This subsection may not be deemed to create or increase the liability of any person.

SECTION 4. (1) School districts are encouraged strongly to enter into shared use agreements with community organizations and local governmental agencies.

(2) Local government entities are expressly authorized to enter into such shared use agreements and/or expend public funds and/or to use public labor and/or equipment and/or commodities in furtherance of the purpose of such agreements.

(3) The State Department of Education, in consultation with the State Department of Health, shall develop a best practices tool kit relating to shared use agreements for school districts. This tool kit must include:

(a) Information outlining liability protections for both the school district and school district employees for injuries resulting from community use of school property or facilities for purposes of recreation or sport during nonschool hours;

(b) Model shared use agreement language;

(c) A list of technical assistance resources available for the school district to promote community recreational use of school property or facilities during nonschool hours;

(d) A list of potential community partners for shared use agreements; and

(e) A list of any grants or funding opportunities available to school districts to promote community recreational use of school property or facilities during nonschool hours.

The tool kit must be posted on the State Department of Education and State Department of Health websites. The State Department of Education shall review the information required by this section no less than every two (2) years and shall update the information as necessary.

(4) The State Department of Education shall provide a link on the department's website to any school district policies or procedures that promote community recreational use of school property or facilities in order to encourage information sharing among the school districts.

(5) Each school district, in consultation with the school health council, must address community recreational use of school property or facilities during nonschool hours.

SECTION 5. This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 7, 2012

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 4, 2012

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

3:29 pm