

1 HB135
2 126402-1
3 By Representative Shiver
4 RFD: Education Policy
5 First Read: 03-MAR-11

SYNOPSIS: This bill would encourage joint use agreements between public school districts, local governments, and private entities for recreation and exercise facilities, and to provide immunity from liability for participating school districts.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local

1 funds within the meaning of the amendment. However,
2 the bill does not require approval of a local
3 governmental entity or enactment by a 2/3 vote to
4 become effective because it comes within one of the
5 specified exceptions contained in the amendment.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to public K-12 education; to encourage
12 joint use agreements between public school districts, local
13 governments, and private entities regarding recreation and
14 exercise facilities; to provide immunity from liability for
15 school districts under certain circumstances; to provide
16 legislative findings; to provide definitions; to provide for
17 rulemaking; to provide an effective date; and in connection
18 therewith would have as its purpose or effect the requirement
19 of a new or increased expenditure of local funds within the
20 meaning of Amendment 621 of the Constitution of Alabama of
21 1901, now appearing as Section 111.05 of the Official
22 Recompilation of the Constitution of Alabama of 1901, as
23 amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. The Legislature finds and declares all of
26 the following:

1 (1) That greater access to recreation and exercise
2 opportunities is needed in Alabama to reduce the impact of
3 overweight children and obesity in health care expenditures.

4 (2) That schools are presently equipped with
5 taxpayer funded playgrounds, fields, tracks, courts, and other
6 exercise and play facilities that offer quick, easily
7 accessible opportunities for exercise for Alabama residents
8 regardless of income.

9 (3) That all local boards of education should be
10 encouraged to develop policies for increased joint use
11 agreements.

12 Section 2. (a) For the purposes of this act, the
13 following terms shall have the following meanings:

14 (1) DEPARTMENT. The State Department of Education.

15 (2) JOINT USE AGREEMENT. A formal agreement between
16 a school district and either a local government or a private
17 organization setting forth the terms and conditions for the
18 shared use of public property or facilities.

19 (b) Each school district across the state is
20 strongly encouraged to participate in joint use programs with
21 a preference given to programs that give the local community
22 access to the recreation and exercise facilities on each
23 school campus. The department shall develop model joint use
24 agreement language for the state and post this model language
25 on the department website.

26 (c) A school participating in a joint use agreement
27 with public or private entities shall be protected from

1 liability when they enter into joint use agreements as
2 specified in this act during the dates and time set forth in
3 each joint use agreement. The liability protection shall cover
4 both personal injury and property damage with the exception of
5 gross negligence. Public and private entities entering into
6 joint use agreements with schools for the use of athletic
7 equipment, recreational facilities, athletic fields, or
8 meeting rooms shall be responsible for securing liability
9 insurance to cover both property damage and personal injury
10 during the dates and times specified in the joint use
11 agreement. Public and Private entities shall be held liable
12 for any personal injury or property damage during the time
13 when they are using school facilities. Schools shall maintain
14 liability responsibility for personal injury or property
15 damage during school hours or for school related events and
16 functions. Private or public entities with joint use
17 agreements shall not be held liable for personal injury or
18 property damage which occurs during school hours or at school
19 sponsored events and functions.

20 (d) Educational facilities and grounds used for any
21 legal assembly or community use may be used as voting places
22 in any primary, regular, or special election. The local board
23 of education shall adopt rules, regulations, or policies and
24 procedures necessary to protect educational facilities and
25 grounds when used for such purposes through joint use
26 agreements.

1 Section 3. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill requires expenditures only by a school board.

8 Section 4. This act shall become effective October
9 1, 2011, following its passage and approval by the Governor,
10 or its otherwise becoming law.