
SENATE BILL No. 606

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26-8; IC 34-13-3-3.

Synopsis: Public use of school buildings and school grounds. Provides that a governing body of a school corporation may, on its own initiative, and shall, upon the approval of a petition by the voters of the school corporation, establish and maintain in the school buildings and on the school grounds under the custody and management of the governing body: (1) evening schools; (2) vacation schools; (3) debating clubs; (4) community centers; (5) gymnasiums and other recreational facilities; (6) public playgrounds; (7) public baths; and (8) similar activities and accommodations; without charge to the residents of the school corporation. Specifies that a governing body must ensure that the use of school buildings and school grounds for any of these activities does not interfere with the use of the school buildings and school grounds during school hours or for any other educational purpose. Provides that, for purposes of the law concerning tort claims against governmental entities, the governing body or an employee of the governing body is not liable for an injury to a person or the property of a person who is engaged in one of these activities unless the injury is the result of an act or omission by the governing body or the employee that amounts to gross negligence, willful or wanton misconduct, or intentional misconduct.

Effective: July 1, 2013.

Schneider

January 17, 2013, read first time and referred to Committee on Public Policy.

C
O
P
Y



First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 606



A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-26-8-1, AS ADDED BY P.L.1-2005, SECTION
2 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2013]: Sec. 1. ~~A board of school trustees in a second or third class city;~~
4 ~~a board of school trustees of a town; or the school trustees of a school~~
5 ~~township: (a) A governing body of a school corporation:~~
6 (1) may, on ~~their~~ **its** own initiative, and shall, upon petition as
7 provided in section 2 of this chapter, establish and maintain for
8 children and adults in the school buildings and on the school
9 grounds under the custody and management of the ~~boards or~~
10 ~~school trustees of school townships:~~ **governing body:**
11 (A) evening schools;
12 (B) vacation schools;
13 (C) debating clubs;
14 (D) community centers;
15 (E) gymnasiums **and other recreational facilities;**
16 (F) public playgrounds;
17 (G) public baths; and



- 1 (H) similar activities and accommodations as determined by
 2 the ~~boards or school trustees of school townships;~~ **governing**
 3 **body;**
 4 without charge to the residents of the ~~cities, towns, or townships;~~
 5 **school corporation;** and
 6 (2) may:
 7 (A) cooperate, by agreement, with other commissioners or
 8 ~~boards or school trustees of school townships~~ **governing**
 9 **bodies** that have custody and management of public parks,
 10 libraries, museums, and other public buildings and grounds to
 11 provide the:
 12 (i) equipment;
 13 (ii) supervision;
 14 (iii) instruction; and
 15 (iv) oversight;
 16 necessary to conduct public educational and recreational
 17 activities in and upon the other buildings and grounds; and
 18 (B) pay all expenses associated with the activities from the
 19 general fund.
 20 **(b) A governing body shall ensure that the use of a school**
 21 **building or school grounds for any purpose described in subsection**
 22 **(a) does not interfere with the use of the school building or school**
 23 **grounds:**
 24 **(1) during school hours; or**
 25 **(2) for any other educational purpose.**
 26 SECTION 2. IC 20-26-8-2, AS ADDED BY P.L.1-2005, SECTION
 27 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 28 2013]: Sec. 2. (a) If ~~(†)~~ a petition is filed with ~~(A)~~ the **circuit court**
 29 ~~clerk of a municipality; or (B) the trustee of any township;~~ **the county**
 30 **that has the greatest percentage of the population of a school**
 31 **corporation** that:
 32 **(1)** is signed by at least ten percent (10%) of the number of voters
 33 voting at the last general election held ~~in the city;~~ or ~~(2)~~ a petition
 34 is presented that contains the signatures of at least one hundred
 35 ~~(100)~~ freeholders living in a town or township; that **within the**
 36 **school corporation; and**
 37 **(2)** sets forth a question in the form prescribed by IC 3-10-9-4 and
 38 a date for an election on the question;
 39 the question of exercising the powers granted for any of the purposes
 40 enumerated in section 1 of this chapter shall be submitted to the
 41 electors of the ~~municipalities or townships.~~ **school corporation.**
 42 (b) The **circuit court** clerk ~~or trustee~~ shall certify the public

C
O
P
Y

1 question to the county election board of each county in which the
 2 school corporation is located. The county election board shall **submit**
 3 **the public question to the voters of the school corporation and** place
 4 the public question on the ballot at the first primary or general election
 5 **conducted held within the school corporation** after certification under
 6 IC 3-10-9-3. If the first primary or general election will be conducted
 7 more than six (6) months after certification, the county election board
 8 shall conduct the election not later than thirty (30) days after
 9 certification.

10 (c) If a majority of the votes cast **by the voters of the school**
 11 **corporation** upon the question are affirmative,

12 ~~(1) the board of school trustees of the municipality; or~~

13 ~~(2) the school trustee of the school township;~~

14 **the governing body of the school corporation** shall exercise the
 15 powers in accordance with the petition under this chapter.

16 SECTION 3. IC 20-26-8-3, AS ADDED BY P.L.1-2005, SECTION
 17 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 18 2013]: Sec. 3. (a) ~~The board or school trustee of any school township~~
 19 **A governing body** may receive and expend for purposes of this chapter
 20 money received as gifts or appropriations made by individuals,
 21 business establishments, or organizations.

22 ~~(b) The board or school trustee of a school township~~ **A governing**
 23 **body** may also receive property that donors transfer to the ~~board or~~
 24 ~~school trustee of a school township:~~ **governing body.** The property
 25 may be used only in conformity with the purposes of this chapter.

26 SECTION 4. IC 34-13-3-3, AS AMENDED BY P.L.125-2011,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2013]: Sec. 3. A governmental entity or an employee acting
 29 within the scope of the employee's employment is not liable if a loss
 30 results from the following:

31 (1) The natural condition of unimproved property.

32 (2) The condition of a reservoir, dam, canal, conduit, drain, or
 33 similar structure when used by a person for a purpose that is not
 34 foreseeable.

35 (3) The temporary condition of a public thoroughfare or extreme
 36 sport area that results from weather.

37 (4) The condition of an unpaved road, trail, or footpath, the
 38 purpose of which is to provide access to a recreation or scenic
 39 area.

40 (5) The design, construction, control, operation, or normal
 41 condition of an extreme sport area, if all entrances to the extreme
 42 sport area are marked with:

C
o
p
y



- 1 (A) a set of rules governing the use of the extreme sport area;
- 2 (B) a warning concerning the hazards and dangers associated
- 3 with the use of the extreme sport area; and
- 4 (C) a statement that the extreme sport area may be used only
- 5 by persons operating extreme sport equipment.
- 6 This subdivision shall not be construed to relieve a governmental
- 7 entity from liability for the continuing duty to maintain extreme
- 8 sports areas in a reasonably safe condition.
- 9 (6) The initiation of a judicial or an administrative proceeding.
- 10 (7) The performance of a discretionary function; however, the
- 11 provision of medical or optical care as provided in IC 34-6-2-38
- 12 shall be considered as a ministerial act.
- 13 (8) The adoption and enforcement of or failure to adopt or enforce
- 14 a law (including rules and regulations), unless the act of
- 15 enforcement constitutes false arrest or false imprisonment.
- 16 (9) An act or omission performed in good faith and without
- 17 malice under the apparent authority of a statute which is invalid
- 18 if the employee would not have been liable had the statute been
- 19 valid.
- 20 (10) The act or omission of anyone other than the governmental
- 21 entity or the governmental entity's employee.
- 22 (11) The issuance, denial, suspension, or revocation of, or failure
- 23 or refusal to issue, deny, suspend, or revoke any permit, license,
- 24 certificate, approval, order, or similar authorization, where the
- 25 authority is discretionary under the law.
- 26 (12) Failure to make an inspection, or making an inadequate or
- 27 negligent inspection, of any property, other than the property of
- 28 a governmental entity, to determine whether the property
- 29 complied with or violates any law or contains a hazard to health
- 30 or safety.
- 31 (13) Entry upon any property where the entry is expressly or
- 32 impliedly authorized by law.
- 33 (14) Misrepresentation if unintentional.
- 34 (15) Theft by another person of money in the employee's official
- 35 custody, unless the loss was sustained because of the employee's
- 36 own negligent or wrongful act or omission.
- 37 (16) Injury to the property of a person under the jurisdiction and
- 38 control of the department of correction if the person has not
- 39 exhausted the administrative remedies and procedures provided
- 40 by section 7 of this chapter.
- 41 (17) Injury to the person or property of a person under supervision
- 42 of a governmental entity and who is:

COPY



- 1 (A) on probation; or
 2 (B) assigned to an alcohol and drug services program under
 3 IC 12-23, a minimum security release program under
 4 IC 11-10-8, a pretrial conditional release program under
 5 IC 35-33-8, or a community corrections program under
 6 IC 11-12.
- 7 (18) Design of a highway (as defined in IC 9-13-2-73), toll road
 8 project (as defined in IC 8-15-2-4(4)), tollway (as defined in
 9 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the
 10 claimed loss occurs at least twenty (20) years after the public
 11 highway, toll road project, tollway, or project was designed or
 12 substantially redesigned; except that this subdivision shall not be
 13 construed to relieve a responsible governmental entity from the
 14 continuing duty to provide and maintain public highways in a
 15 reasonably safe condition.
- 16 (19) Development, adoption, implementation, operation,
 17 maintenance, or use of an enhanced emergency communication
 18 system.
- 19 (20) Injury to a student or a student's property by an employee of
 20 a school corporation if the employee is acting reasonably under a
 21 discipline policy adopted under IC 20-33-8-12.
- 22 (21) An act or omission performed in good faith under the
 23 apparent authority of a court order described in IC 35-46-1-15.1
 24 that is invalid, including an arrest or imprisonment related to the
 25 enforcement of the court order, if the governmental entity or
 26 employee would not have been liable had the court order been
 27 valid.
- 28 (22) An act taken to investigate or remediate hazardous
 29 substances, petroleum, or other pollutants associated with a
 30 brownfield (as defined in IC 13-11-2-19.3) unless:
 31 (A) the loss is a result of reckless conduct; or
 32 (B) the governmental entity was responsible for the initial
 33 placement of the hazardous substances, petroleum, or other
 34 pollutants on the brownfield.
- 35 (23) The operation of an off-road vehicle (as defined in
 36 IC 14-8-2-185) by a nongovernmental employee, or by a
 37 governmental employee not acting within the scope of the
 38 employment of the employee, on a public highway in a county
 39 road system outside the corporate limits of a city or town, unless
 40 the loss is the result of an act or omission amounting to:
 41 (A) gross negligence;
 42 (B) willful or wanton misconduct; or

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

(C) intentional misconduct.
This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.
(24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.
(25) An injury to a person or the property of a person who is engaged in an activity or using an accommodation established and maintained by the governing body of a school corporation under IC 20-26-8-1 unless the injury is the result of an act or omission by the governing body, or an employee of the governing body acting within the scope of the employee's employment, that amounts to:
(A) gross negligence;
(B) willful or wanton misconduct; or
(C) intentional misconduct.

C
o
p
y

