Ohio Legislative Service Commission

Bill Analysis

Carol Napp

H.B. 290

130th General Assembly
(As Introduced)

Reps. Stebelton, Becker, Smith, Huffman, Grossman, J. Adams, Terhar, Blessing, Scherer, Hood, Buchy, Brenner, Fedor, Perales, Maag

BILL SUMMARY

- For purposes of existing law requiring a school district to make its schoolhouses, facilities, and school grounds available to community members for educational, religious, civic, social, or recreational purposes, replaces all references to schoolhouses, facilities, and school grounds with the term "school premises."

- Specifies that recreational uses of the school premises are all indoor and outdoor games or physical activities, either organized or unorganized, that are undertaken for exercise, relaxation, diversion, sport, or pleasure.

- Grants school districts and their employees, schools in those districts and their employees, and members of those districts' boards of education qualified immunity from liability in a civil action for damages allegedly arising from the use of school premises by others in the manner described above.

CONTENT AND OPERATION

Use of school premises by community members

Current law requires a school district to make its schoolhouses, facilities, and school grounds available on an impartial basis to community members for educational, religious, civic, social, or recreational purposes, including use as polling places. A district's board of education must adopt a policy on those uses and may charge a reasonable fee.

The bill replaces all references to schoolhouses, facilities, and school grounds in this law with the term "school premises," which is defined as "all indoor and outdoor

structures, facilities, and land owned, rented, or leased by a school or school district."[1] It also specifies that recreational uses of the school premises (which continuing law describes as "recreational meetings and entertainments") are all indoor or outdoor games or physical activities, either organized or unorganized, that are undertaken for exercise, relaxation, diversion, sport, or pleasure. Finally, it refers to the "general public" who may use school premises as members of the community, including students during nonschool hours and school employees when not working in their scope of employment.[2]

Qualified immunity from civil liability

School districts and their employees acting within the scope of employment generally have immunity from civil liability for damages in the performance of governmental functions, including functions that the General Assembly mandates districts and schools to perform, under the state Political Subdivision Sovereign Immunity Law.[3]

Nonetheless, the bill explicitly provides that city, local, and exempted village school districts and their employees, schools in those districts and their employees, and members of those districts' boards of education are not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from the use of school premises by others in the manner described above. However, that immunity does not apply if the injury, death, or loss to person or property results from willful or wanton misconduct by the school district, school, employee, or board member. The bill also specifies that its provisions do not eliminate, limit, or reduce any other immunity or defense that may be available under the Political Subdivision Sovereign Immunity Law, any other provision of the Revised Code, or the common law of Ohio.[4]

HISTORY

ACTION	DATE
Introduced	10-10-13

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[1] R.C. 3313.75, 3313.76, 3313.77, and 3313.78.

[2] R.C. 3313.77.

[3] R.C. Chapter 2744.

[4] R.C. 3313.791.