

AMENDED IN ASSEMBLY MARCH 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 438

Introduced by Assembly Member Williams

February 14, 2011

An act to amend Sections 19104, 19106, and 19116 of the Education Code, relating to libraries.

LEGISLATIVE COUNSEL'S DIGEST

AB 438, as amended, Williams. County free libraries: withdrawal.

Existing law provides that the county boards of supervisors may establish and maintain, within their respective counties, county free libraries pursuant to specified provisions of law. Existing law provides that the board of trustees, common council, or other legislative body of any city or the board of trustees of any library district may, on or before January 1st of any year, notify the board of supervisors that the city or library district no longer desires to be a part of the county free library system, as specified.

This bill would require that if the city's trustees, common council, or legislative body or the board of trustees of a library district intends to operate the city's or the district's library or libraries itself with the help of a private ~~company~~ *contractor* that will employ library staff, that notice to the county board of supervisors be preceded by voter approval of the decision to withdraw from the county free library system and to ~~employ~~ *use* a private contractor *that will employ library staff* to operate the city's or the district's library or libraries.

Existing law requires that before any board of trustees, common council, or other legislative body of any city, or the board of trustees of any library district gives notice that the city or library district desires

to become a part of the county free library system, or gives notice of withdrawal from the system, that notice of the contemplated action be published, as specified.

This bill would provide that no notice need be given if the voters have approved the withdrawal pursuant to the provisions discussed above.

This bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19104 of the Education Code is amended
2 to read:

3 19104. The board of trustees, common council, or other
4 legislative body of any city or the board of trustees of any library
5 district may, on or before January 1st of any year, notify the county
6 board of supervisors that the city or library district no longer desires
7 to be a part of the county free library system. If the city’s trustees,
8 common council, or legislative body or the board of trustees of a
9 library district intends to operate the city’s or the district’s library
10 or libraries itself with the help of a private ~~company~~ contractor
11 that will employ library staff, this notice shall be preceded by voter
12 approval at a regularly scheduled election of the decision to
13 withdraw from the county free library system and to ~~employ~~ use
14 a private contractor *that will employ library staff* to operate the
15 city’s or the district’s library or libraries. The notice shall be
16 accompanied by a statement complying with the requirements of
17 Chapter 8 (commencing with Section 54900) of Part 1 of Division
18 2 of Title 5 of the Government Code. The clerk of the county board
19 of supervisors shall file the statement with the county assessor and
20 the State Board of Equalization. Thereafter, the city or library
21 district shall cease to participate in the benefits of the county free
22 ~~library~~, *library system*, and the property situated in the city or
23 library district shall not be liable ~~to~~ *for* taxes for county free library
24 purposes.

25 SEC. 2. Section 19106 of the Education Code is amended to
26 read:

27 19106. Before any board of trustees, common council, or other
28 legislative body of any city, or the board of trustees of any library
29 district gives notice that the city or library district desires to become

1 a part of the county free library system, or gives notice of
2 withdrawal from the system, the board of trustees, common council,
3 or other legislative body of the city or the board of trustees of the
4 library district shall publish at least once a week for two successive
5 weeks prior to the giving of either notice, in a newspaper
6 designated by the board of trustees, common council, or other
7 legislative body of the city or the board of trustees of the library
8 district, and circulating throughout the city or library district, notice
9 of the contemplated action, giving the date and the place of the
10 meeting at which the contemplated action is proposed to be taken
11 unless the voters have approved withdrawal pursuant to Section
12 19104.

13 SEC. 3. Section 19116 of the Education Code is amended to
14 read:

15 19116. (a) Sections 19104 and 19105 are not applicable to the
16 withdrawal of a city or library district from the county free library
17 system in Los Angeles County or Riverside County. The legislative
18 body of any city or the board of trustees of any library district,
19 whose jurisdiction is within the County of Los Angeles or the
20 County of Riverside, may notify the board of supervisors for Los
21 Angeles County or Riverside County, as appropriate, that the city
22 or library district no longer desires to be a part of the county free
23 library system. In the event that the city's legislative body or the
24 library district's board of trustees intends to operate the city or
25 district's library or libraries itself, with the help of a private
26 ~~company~~ contractor that will employ library staff, that notice shall
27 be preceded by voter approval at a regularly scheduled election
28 on the decision to withdraw and to ~~employ~~ use a private contractor
29 *that will employ library staff to operate the city or district's library*
30 *or libraries*. The notice shall state whether the city or library district
31 intends to acquire property pursuant to subdivision (c). The board
32 of supervisors shall transmit a copy of the notice to the Los Angeles
33 County Assessor or Riverside County Assessor, as appropriate,
34 the Los Angeles County Auditor or Riverside County Auditor, as
35 appropriate, and the State Board of Equalization.

36 (b) When a city or library district files a notice pursuant to
37 subdivision (a), it shall remain a member of the county free library
38 system until July 1 of the base year or the date on which property
39 is transferred pursuant to subdivision (c), whichever date is later.
40 Upon ceasing to be a member of the county free library system,

1 the city or library district shall not participate in any benefits of
2 the county free library system, and shall assume the responsibility
3 for the provision of library services within its jurisdiction. Unless
4 otherwise agreed by July 1 of the base year in writing by the Board
5 of Supervisors of Los Angeles County or the Board of Supervisors
6 of Riverside County, as appropriate, and the withdrawing city or
7 library *system* district, an amount of property tax revenue equal to
8 the property tax revenues allocated to the county free library
9 pursuant to Article 2 (commencing with Section 96) of Chapter 6
10 of Part 0.5 of Division 1 of the Revenue and Taxation Code in the
11 fiscal year prior to the base year and that were derived from
12 property situated within the boundaries of the withdrawing entity
13 shall be allocated to and used to maintain library services by the
14 withdrawing entity in the base year and, adjusted forward, in each
15 fiscal year thereafter at the same time allocations are made pursuant
16 to Article 2 (commencing with Section 96) of Chapter 6 of Part
17 0.5 of Division 1 of the Revenue and Taxation Code. This
18 subdivision shall not apply to property tax revenues that have been
19 pledged to repay bonded indebtedness of the county free ~~library~~
20 *library system*.

21 (c) If there are one or more county library facilities within the
22 territorial boundaries of the withdrawing entity at the time the
23 withdrawing entity provides notice pursuant to subdivision (a),
24 the withdrawing entity shall have the right to acquire any or all of
25 those facilities from the county and the county shall, no later than
26 July 1 of the base year, transfer to the withdrawing entity each
27 facility to be acquired and the personal property therein related to
28 the provision of library services. If the facility or personal property
29 was purchased with bond proceeds or other forms of indebtedness,
30 acquisition shall only take place if the withdrawing entity assumes
31 any remaining indebtedness and in no way impairs the repayment
32 thereof. If the withdrawing entity opts not to acquire any facilities
33 or personal property, the county at its discretion may dispose of
34 the facilities or personal property or convert the use of those
35 facilities or personal property, including transferring collections
36 and other personal property to other sites and converting facilities
37 to other purposes. If the withdrawing entity opts to acquire any
38 facilities or personal property, the acquisition prices shall be as
39 follows unless otherwise provided for by statute or contract:

1 (1) Each county library facility which, for the purposes of this
2 section, shall include the real property upon which the facility is
3 located and any fixtures therein and shall not include computer
4 systems and software, shall be transferred for the lesser of:

5 (A) No cost, if the facility was donated to the county by the
6 withdrawing entity.

7 (B) The price paid to the withdrawing entity by the county for
8 the facility, if the county bought the facility from the withdrawing
9 entity. However, if the county constructed capital improvements
10 to the facility after it was bought from the withdrawing entity, the
11 county's total out-of-pocket costs for the capital improvement
12 excluding any costs for routine repairs, restoration or maintenance,
13 shall be added to the price.

14 (C) The fair market value of the facility. However, if any portion
15 of the facility was donated to the county by the withdrawing entity
16 or if any moneys were donated by the withdrawing entity towards
17 the county's construction or acquisition of the facility or any
18 portion thereof, the value of the donation shall be subtracted from
19 the fair market value.

20 (2) Any personal property within the facility related to the
21 provision of library services, including books and resource
22 materials, computer systems and software, furniture, and
23 furnishings, shall be transferred for the lesser of:

24 (A) No cost, if the property was donated to the county by the
25 withdrawing entity.

26 (B) The fair market value of the personal property. However,
27 on or before the March 1 preceding the July 1 of the base year, the
28 county librarian may designate collections of resource books and
29 materials that are unique in, and integral to, the county free library
30 system to be special collections. The special collections shall be
31 acquired by the withdrawing entity only upon mutually agreeable
32 terms and conditions.

33 (d) If a facility transferred pursuant to subdivision (c) serves
34 residents of surrounding jurisdictions, the board of supervisors
35 governing the county free library system may require, as a
36 condition of transferring the facility, that the library services
37 provided by the withdrawing entity to its residents also be available
38 on the same basis to the residents of the surrounding jurisdictions.
39 However, if the withdrawing entity contributes to the provision of
40 library services from other city funds, or through taxes,

1 assessments, or fees of its residents, the withdrawing entity may
2 provide additional services to its residents. If the requirement to
3 provide regional services is imposed and, unless otherwise agreed
4 in writing by the county and the withdrawing entity by July 1 of
5 the base year, an amount of property tax revenues equal to the
6 property tax revenues derived from property situated in the
7 surrounding jurisdictions which were, in the fiscal year prior to
8 the base year, allocated to the county free library system pursuant
9 to Article 2 (commencing with Section 96) of Chapter 6 of Part
10 0.5 of Division 1 of the Revenue and Taxation Code shall be
11 allocated to and used to maintain library services by the
12 withdrawing entity in the base year and, adjusted forward, in each
13 fiscal year thereafter at the same time other allocations are made
14 pursuant to Article 2 (commencing with Section 96) of Chapter 6
15 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This
16 subdivision shall not apply to property tax revenues that have been
17 pledged to repay bonded indebtedness. If a surrounding jurisdiction
18 subsequently provides notice of its intent to withdraw from the
19 county free library system pursuant to subdivision (a), on the date
20 the surrounding jurisdiction ceases to participate in the benefits of
21 the county free library system pursuant to subdivision (b), the
22 withdrawing entity shall no longer be required to make library
23 services available to the residents of the surrounding jurisdiction
24 and property tax revenues derived from property situated in the
25 surrounding jurisdiction shall no longer be allocated to the
26 withdrawing entity pursuant to this subdivision.

27 (e) For purposes of this section, the following terms are defined
28 as follows:

29 (1) “Base year” means the fiscal year commencing on the July
30 1 following the December 2 following the date of the notice given
31 pursuant to subdivision (a) of this section.

32 (2) “Fair market value” means:

33 (A) Any value agreed upon by the withdrawing entity and the
34 county.

35 (B) If no agreement as to value is reached by the March 1
36 preceding the July 1 of the base year, the value assigned by an
37 appraiser agreed upon by the withdrawing entity and the county.

38 (C) If no agreement as to the appointment of an appraiser is
39 reached pursuant to subparagraph (B) by the April 1 preceding the
40 July 1 of the base year, the value assigned by an appraiser agreed

1 upon between the withdrawing entity’s appraiser and the county’s
2 appraiser.

3 (D) If no agreement as to the appointment of an appraiser is
4 reached pursuant to subparagraph (C) by the May 1 preceding the
5 July 1 of the base year, the value assigned by a state certified
6 appraiser designated by the withdrawing entity. The designated
7 appraiser shall provide the appraisal in writing to the county no
8 later than the June 1 preceding the July 1 of the base year.

9 (E) The withdrawing entity shall reimburse the county for any
10 appraisal costs the county incurs in determining the fair market
11 value pursuant to this section.

12 (3) “Surrounding jurisdictions” means cities and library districts
13 that are adjacent to the withdrawing entity and tax rate areas in
14 unincorporated areas of the county that are wholly or partially
15 within the withdrawing entity’s sphere of influence, that are within
16 the county free library system and have no facility within their
17 territorial boundaries providing library services at the time the
18 withdrawing entity provides notice pursuant to subdivision (a).

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