

AMENDED IN SENATE APRIL 26, 2012

**SENATE BILL**

**No. 1404**

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**Introduced by Senator Hancock**

February 24, 2012

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An act to ~~amend Sections 10912 and~~ *amend, repeal, and add Section* 38134 of the Education Code, relating to school property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1404, as amended, Hancock. School property: Civic Center Act.

Existing law, known as the Civic Center Act, authorizes a school district governing board to grant the use of school facilities or grounds as a civic center, for specified purposes, upon terms and conditions deemed proper by the governing board. Existing law authorizes a school district governing board to charge a fee, not to exceed the school district's direct costs, as defined, for use of the school facilities or grounds by entities that promote youth and school activities or that arrange for and supervise sports league activities for youths.

~~Existing law also requires a school district governing board to charge an entity a fee equal to the fair rental value, as defined, of the school facilities or grounds in the case of entertainments or meetings where the entity using the school facilities or grounds charges admission fees or solicits contributions and the net receipts are not expended for the welfare of pupils of the school district or for charitable purposes.~~

This bill would, *until January 1, 2020*, expand the definition of direct costs that a school district governing board may charge an entity for the use of school facilities or grounds to include ~~all of the following~~: a share of the operating and maintenance costs proportional to the use of school facilities or grounds by the entity using those facilities or grounds under this ~~provision~~; *provision*, and a share of the ~~amortized costs of~~

*for maintenance, repair, refurbishment, or replacement restoration, and refurbishment of the school facilities or grounds proportional to that entity’s use of school facilities or grounds; and costs incurred as a result of that entity’s use of school facilities or grounds that a school district would not otherwise incur. The bill would allow a governing board to determine direct costs as categorized by the type of facility or grounds generally, rather than by costs incurred at a specific facility by a particular entity. The bill would require the State Board of Education to develop guidelines to be used by a school district in determining the proportionate share and the specific allowable costs that a school district may include as direct costs for the use of its school facilities or grounds.*

The bill also would require a school district to charge a fee equal to the fair market value, as defined, of the school facilities or grounds in the case of an entertainment or meeting where the entity using the school facilities or grounds charges an admission fee or solicits contributions, and the net receipts are not expended for the welfare of pupils of the school district or for charitable purposes.

This bill would also make a conforming change to a related provision of existing law.

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

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

- 1     ~~SECTION 1.~~ Section 10912 of the Education Code is amended
- 2     to read:
- 3     ~~10912.~~ The governing body of a school district may require
- 4     persons, other than pupils, or organizations desiring to use the
- 5     recreational facilities on school grounds or belonging to a school
- 6     or the facilities or grounds provided by the school district at a
- 7     community recreation center maintained solely by the school
- 8     district, to pay fees for the use as the governing body may
- 9     prescribe, and as required by Section 38134.
- 10    ~~SEC. 2.~~
- 11    ~~SECTION 1.~~ Section 38134 of the Education Code is amended
- 12    to read:
- 13    38134. (a) (1) The governing board of a school district shall
- 14    authorize the use of school facilities or grounds under its control,
- 15    if an alternative location is not available, by a nonprofit

1 organization, or by a club or an association organized to promote  
2 youth and school activities, including, but not necessarily limited  
3 to, any of the following:

4 (A) The Girl Scouts; the Boy Scouts; or Camp Fire, Inc.

5 (B) A parent-teacher association.

6 (C) A school-community advisory council.

7 (2) This subdivision does not apply to a group that uses school  
8 facilities or grounds for fundraising activities that are not beneficial  
9 to youth or public school activities of the school district, as  
10 determined by the governing board.

11 (b) Except as otherwise provided by law, a governing board  
12 may charge an amount not to exceed its direct costs for use of its  
13 school facilities. A governing board that levies these charges shall  
14 first adopt a policy specifying which activities shall be charged an  
15 amount not to exceed direct costs.

16 (c) The governing board of a school district may charge an  
17 amount, not to exceed its direct costs for use of its school facilities  
18 or grounds by the entity using the school facilities or grounds,  
19 including a religious organization or church, that arranges for and  
20 supervises sports league activities for youths as described in  
21 paragraph (6) of subdivision (b) of Section 38131.

22 (d) The governing board of a school district that authorizes the  
23 use of school facilities or grounds for the purpose specified in  
24 paragraph (3) of subdivision (b) of Section 38131 shall charge the  
25 church or religious ~~denomination~~ *organization* an amount at least  
26 equal to the school district's direct costs.

27 (e) In the case of an entertainment or a meeting where an  
28 admission fee is charged or contributions are solicited, and the net  
29 receipts are not expended for the welfare of the pupils of the school  
30 district or for charitable purposes, a charge equal to fair-~~market~~  
31 *rental* value shall be levied for the use of the school facilities or  
32 grounds.

33 (f) If the use of school facilities or grounds under this section  
34 results in the destruction of school property, the entity using the  
35 school facilities or grounds may be charged for an amount  
36 necessary to repay the damages, and further use of the facilities  
37 or grounds by that entity may be denied.

38 (g) As used in this section:

39 (1) ~~(A)~~ "Direct costs" to the school district for the use of school  
40 facilities or grounds includes all of the following:

1 (i)

2 (A) The share of the costs of supplies, utilities, janitorial  
3 services, services of school district employees, and salaries paid  
4 to school district employees to operate and maintain school  
5 facilities or grounds that is proportional to the use of the school  
6 facilities or grounds by the entity using the school facilities or  
7 grounds under this section.

8 (ii)

9 (B) The share of ~~amortized~~ *the costs of for maintenance, repair,*  
10 ~~refurbishment, or replacement of restoration, and refurbishment,~~  
11 *proportional to the use of the school facilities or grounds, including*  
12 ~~artificial turf fields, that is proportional to the use of the school~~  
13 ~~facilities or grounds by the entity using the school facilities or~~  
14 ~~grounds under this section.~~

15 (iii) ~~The costs incurred from the use of school facilities or~~  
16 ~~grounds by the entity using the school facilities or grounds under~~  
17 ~~this section that would not otherwise be incurred by the affected~~  
18 ~~school district.~~

19 (B) ~~In determining direct costs, a school district may consider~~  
20 ~~costs as categorized by the type of facility or grounds, and, for~~  
21 ~~example, a school district may consider athletic facilities or~~  
22 ~~auditoriums generally rather than consider the costs incurred at a~~  
23 ~~specific facility by a particular entity.~~

24 (2) ~~“Fair market value” means the price determined by the~~  
25 ~~governing board of a school district as the most probable price that~~  
26 ~~the use of a property should bring in a competitive and open market~~  
27 ~~under all conditions requisite to a fair sale, the buyer and seller~~  
28 ~~acting prudently and knowledgeably, and assuming the price is~~  
29 ~~not affected by an undue stimulus.~~

30 (2) *“Fair rental value” means the direct costs to the school*  
31 *district, plus the amortized costs of the school facilities or grounds*  
32 *used for the duration of the activity authorized.*

33 (h) *The state board shall develop guidelines to be used by a*  
34 *school district in determining the proportionate share and the*  
35 *specific allowable costs that a school district may include as direct*  
36 *costs for the use of its school facilities or grounds.*

37 (h)

38 (i) (1) A school district authorizing the use of school facilities  
39 or grounds under subdivision (a) is liable for an injury resulting  
40 from the negligence of the school district in the ownership and

1 maintenance of the school facilities or grounds. An entity using  
2 school facilities or grounds under this section is liable for an injury  
3 resulting from the negligence of that entity during the use of the  
4 school facilities or grounds. The school district and the entity using  
5 the school facilities or grounds under this section shall each bear  
6 the cost of insuring against its respective risks, and shall each bear  
7 the costs of defending itself against claims arising from those risks.

8 (2) Notwithstanding any other law, this subdivision shall not  
9 be waived. This subdivision does not limit or affect the immunity  
10 or liability of a school district under Division 3.6 (commencing  
11 with Section 810) of Title 1 of the Government Code, for injuries  
12 caused by a dangerous condition of public property.

13 *(j) This section shall remain in effect only until January 1, 2020,*  
14 *and as of that date is repealed, unless a later enacted statute, that*  
15 *is enacted before January 1, 2020, deletes or extends that date.*

16 SEC. 2. Section 38134 is added to the Education Code, to read:

17 38134. (a) (1) *The governing board of a school district shall*  
18 *authorize the use of school facilities or grounds under its control,*  
19 *if an alternative location is not available, by a nonprofit*  
20 *organization, or by a club or an association organized to promote*  
21 *youth and school activities, including, but not necessarily limited*  
22 *to, any of the following:*

23 (A) *The Girl Scouts; the Boy Scouts; or Camp Fire, Inc.*

24 (B) *A parent-teachers association.*

25 (C) *A school-community advisory council.*

26 (2) *This subdivision does not apply to a group that uses school*  
27 *facilities or grounds for fundraising activities that are not*  
28 *beneficial to youth or public school activities of the school district,*  
29 *as determined by the governing board.*

30 (b) *Except as otherwise provided by law, a governing board*  
31 *may charge an amount not to exceed its direct costs for use of its*  
32 *school facilities or grounds. A governing board that levies these*  
33 *charges shall first adopt a policy specifying which activities shall*  
34 *be charged an amount not to exceed direct costs.*

35 (c) *The governing board of a school district may charge an*  
36 *amount, not to exceed its direct costs for use of its school facilities*  
37 *or grounds by the entity using the school facilities or grounds,*  
38 *including a religious organization or church, that arranges for*  
39 *and supervises sports league activities for youths as described in*  
40 *paragraph (6) of subdivision (b) of Section 38131.*

1 (d) *The governing board of a school district that authorizes the*  
2 *use of school facilities or grounds for the purpose specified in*  
3 *paragraph (3) of subdivision (b) of Section 38131 shall charge the*  
4 *church or religious organization an amount at least equal to the*  
5 *school district's direct costs.*

6 (e) *In the case of an entertainment or a meeting where an*  
7 *admission fee is charged or contributions are solicited, and the*  
8 *net receipts are not expended for the welfare of the pupils of the*  
9 *school district or for charitable purposes, a charge equal to fair*  
10 *rental value shall be levied for the use of the school facilities or*  
11 *grounds.*

12 (f) *If the use of school facilities or grounds under this section*  
13 *results in the destruction of school property, the entity using the*  
14 *school facilities or grounds may be charged for an amount*  
15 *necessary to repay the damages, and further use of facilities or*  
16 *grounds by that entity may be denied.*

17 (g) *As used in this section:*

18 (1) *"Direct costs" to the school district for the use of school*  
19 *facilities or grounds means those costs of supplies, utilities,*  
20 *janitorial services, services of school district employees, and*  
21 *salaries paid to school district employees necessitated by the*  
22 *entity's use of the school facilities or grounds.*

23 (2) *"Fair rental value" means the direct costs to the school*  
24 *district, plus the amortized costs of the school facilities or grounds*  
25 *used for the duration of the activity authorized.*

26 (h) (1) *A school district authorizing the use of school facilities*  
27 *or grounds under subdivision (a) is liable for an injury resulting*  
28 *from the negligence of the school district in the ownership and*  
29 *maintenance of the school facilities or grounds. An entity using*  
30 *school facilities or grounds under this section is liable for an injury*  
31 *resulting from the negligence of that entity during the use of the*  
32 *school facilities or grounds. The school district and the entity using*  
33 *the school facilities or grounds under this section shall each bear*  
34 *the cost of insuring against its respective risks and shall each bear*  
35 *the costs of defending itself against claims arising from those risks.*

36 (2) *Notwithstanding any other law, this subdivision shall not*  
37 *be waived. This subdivision does not limit or affect the immunity*  
38 *or liability of a school district under Division 3.6 (commencing*  
39 *with Section 810) of Title 1 of the Government Code, for an injury*  
40 *caused by a dangerous condition of public property.*

- 1 (i) *This section is operative on and after January 1, 2020.*

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