

AMENDED IN SENATE MAY 25, 2012

AMENDED IN SENATE APRIL 26, 2012

SENATE BILL

No. 1404

Introduced by Senator Hancock

February 24, 2012

An act to 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.

This bill ~~would~~, until January 1, 2020, *would* 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 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; and a share of the costs for maintenance, repair, restoration, and refurbishment of the school facilities or grounds proportional to that entity's use of school facilities or grounds. The bill would require the *Superintendent of Public Instruction to develop, and the State Board of Education to develop guidelines adopt, regulations* 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.

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

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

- 1 SECTION 1. Section 38134 of the Education Code is amended
- 2 to read:
- 3 38134. (a) (1) The governing board of a school district shall
- 4 authorize the use of school facilities or grounds under its control,
- 5 if an alternative location is not available, by a nonprofit
- 6 organization, or by a club or an association organized to promote
- 7 youth and school activities, including, but not necessarily limited
- 8 to, any of the following:
- 9 (A) The Girl Scouts; the Boy Scouts; or Camp Fire, Inc.
- 10 (B) A parent-teacher association.
- 11 (C) A school-community advisory council.
- 12 (2) This subdivision does not apply to a group that uses school
- 13 facilities or grounds for fundraising activities that are not beneficial
- 14 to youth or public school activities of the school district, as
- 15 determined by the governing board.
- 16 (b) Except as otherwise provided by law, a governing board
- 17 may charge an amount not to exceed its direct costs for use of its
- 18 school facilities. A governing board that levies these charges shall
- 19 first adopt a policy specifying which activities shall be charged an
- 20 amount not to exceed direct costs.
- 21 (c) The governing board of a school district may charge an
- 22 amount, not to exceed its direct costs for use of its school facilities
- 23 or grounds by the entity using the school facilities or grounds,
- 24 including a religious organization or church, that arranges for and
- 25 supervises sports league activities for youths as described in
- 26 paragraph (6) of subdivision (b) of Section 38131.
- 27 (d) The governing board of a school district that authorizes the
- 28 use of school facilities or grounds for the purpose specified in
- 29 paragraph (3) of subdivision (b) of Section 38131 shall charge the
- 30 church or religious organization an amount at least equal to the
- 31 school district’s direct costs.
- 32 (e) In the case of an entertainment or a meeting where an
- 33 admission fee is charged or contributions are solicited, and the net

1 receipts are not expended for the welfare of the pupils of the school
2 district or for charitable purposes, a charge equal to fair rental
3 value shall be levied for the use of the school facilities or grounds.

4 (f) If the use of school facilities or grounds under this section
5 results in the destruction of school property, the entity using the
6 school facilities or grounds may be charged for an amount
7 necessary to repay the damages, and further use of the facilities
8 or grounds by that entity may be denied.

9 (g) As used in this section:

10 (1) "Direct costs" to the school district for the use of school
11 facilities or grounds includes all of the following:

12 (A) The share of the costs of supplies, utilities, janitorial
13 services, services of school district employees, and salaries paid
14 to school district employees to operate and maintain school
15 facilities or grounds that is proportional to the use of the school
16 facilities or grounds by the entity using the school facilities or
17 grounds under this section.

18 (B) The share of the costs for maintenance, repair, restoration,
19 and refurbishment, proportional to the use of the school facilities
20 or grounds.

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

24 (h) ~~The state board shall develop guidelines~~ *By December 31,*
25 *2013, the Superintendent shall develop, and the state board shall*
26 *adopt, regulations* to be used by a school district in determining
27 the proportionate share and the specific allowable costs that a
28 school district may include as direct costs for the use of its school
29 facilities or grounds.

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

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

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

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

10 38134. (a) (1) The governing board of a school district shall
11 authorize the use of school facilities or grounds under its control,
12 if an alternative location is not available, by a nonprofit
13 organization, or by a club or an association organized to promote
14 youth and school activities, including, but not necessarily limited
15 to, any of the following:

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

17 (B) A ~~parent-teachers~~ *parent-teacher* association.

18 (C) A school-community advisory council.

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

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

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

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

39 (e) In the case of an entertainment or a meeting where an
40 admission fee is charged or contributions are solicited, and the net

1 receipts are not expended for the welfare of the pupils of the school
2 district or for charitable purposes, a charge equal to fair rental
3 value shall be levied for the use of the school facilities or grounds.

4 (f) If the use of school facilities or grounds under this section
5 results in the destruction of school property, the entity using the
6 school facilities or grounds may be charged for an amount
7 necessary to repay the damages, and further use of facilities or
8 grounds by that entity may be denied.

9 (g) As used in this section:

10 (1) “Direct costs” to the school district for the use of school
11 facilities or grounds means those costs of supplies, utilities,
12 janitorial services, services of school district employees, and
13 salaries paid to school district employees necessitated by the
14 entity’s use of the school facilities or grounds.

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

18 (h) (1) A school district authorizing the use of school facilities
19 or grounds under subdivision (a) is liable for an injury resulting
20 from the negligence of the school district in the ownership and
21 maintenance of the school facilities or grounds. An entity using
22 school facilities or grounds under this section is liable for an injury
23 resulting from the negligence of that entity during the use of the
24 school facilities or grounds. The school district and the entity using
25 the school facilities or grounds under this section shall each bear
26 the cost of insuring against its respective risks and shall each bear
27 the costs of defending itself against claims arising from those risks.

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

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