

AMENDED IN ASSEMBLY JUNE 19, 2012

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, 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 *specified* share of the operating and maintenance costs proportional to the *entity's* use of *the* 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, *as specified*. The bill would require the Superintendent of Public Instruction

to develop, and the State Board of Education to 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. *The bill would make other related changes.*

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; ~~Ine.~~ USA;
 10 ~~or the YMCA.~~
 11 (B) A parent-teacher association.
 12 (C) A school-community advisory council.
 13 (2) This subdivision does not apply to a group that uses school
 14 facilities or grounds for fundraising activities that are not beneficial
 15 to youth or public school activities of the school district, as
 16 determined by the governing board.
 17 (b) Except as otherwise provided by law, a governing board
 18 may charge an amount not to exceed its direct costs for use of its
 19 school facilities *or grounds*. A governing board that levies these
 20 charges shall first adopt a policy specifying which activities shall
 21 be charged an amount not to exceed direct costs.
 22 (c) The governing board of a school district may charge an
 23 amount, not to exceed its direct costs for use of its school facilities
 24 or grounds by the entity using the school facilities or grounds,
 25 including a religious organization or church, that arranges for and
 26 supervises sports league activities for youths as described in
 27 paragraph (6) of subdivision (b) of Section 38131.
 28 (d) The governing board of a school district that authorizes the
 29 use of school facilities or grounds for the purpose specified in
 30 paragraph (3) of subdivision (b) of Section 38131 shall charge the

1 church or religious organization an amount at least equal to the
2 school district's direct costs.

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

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

13 (g) As used in this section:

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

16 (A) The share of the costs of supplies, utilities, janitorial
17 services, services of school district employees, and salaries paid
18 to school district employees *directly associated with the*
19 *administration of this section* to operate and maintain school
20 facilities or grounds that is proportional to the *entity's* use of the
21 school facilities or grounds ~~by the entity using the school facilities~~
22 ~~or grounds~~ under this section.

23 (B) The share of the costs for maintenance, repair, restoration,
24 and refurbishment, proportional to the use of the school facilities
25 ~~or grounds~~: *grounds by the entity using the school facilities or*
26 *grounds under this section as follows:*

27 (i) *For purposes of this subparagraph, "school facilities" shall*
28 *be limited to only nonclassroom space and "school grounds" shall*
29 *include, but not be limited to, playing fields, athletic fields, track*
30 *and field venues, tennis courts, and outdoor basketball courts.*

31 (ii) *The share of the cost for maintenance, repair, restoration,*
32 *and refurbishment shall not apply to:*

33 (I) *Classroom-based after school programs, including, but not*
34 *limited to, tutoring programs or child care programs.*

35 (II) *Organizations serving pupil populations during the core*
36 *school day.*

37 (iii) *Funds collected under this subparagraph shall be deposited*
38 *into a special fund that shall only be used for purposes of this*
39 *section.*

1 (2) “Fair rental value” means the direct costs to the school
 2 district; plus the amortized costs of the school facilities or grounds
 3 used for the duration of the activity authorized.

4 (h) By December 31, 2013, the Superintendent shall develop,
 5 and the state board shall adopt, regulations to be used by a school
 6 district in determining the proportionate share and the specific
 7 allowable costs that a school district may include as direct costs
 8 for the use of its school facilities or grounds.

9 (i) (1) A school district authorizing the use of school facilities
 10 or grounds under subdivision (a) is liable for an injury resulting
 11 from the negligence of the school district in the ownership and
 12 maintenance of the school facilities or grounds. An entity using
 13 school facilities or grounds under this section is liable for an injury
 14 resulting from the negligence of that entity during the use of the
 15 school facilities or grounds. The school district and the entity using
 16 the school facilities or grounds under this section shall each bear
 17 the cost of insuring against its respective risks, and shall each bear
 18 the costs of defending itself against claims arising from those risks.

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

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

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

28 38134. (a) (1) The governing board of a school district shall
 29 authorize the use of school facilities or grounds under its control;
 30 ~~if an alternative location is not available~~, by a nonprofit
 31 organization, or by a club or an association organized to promote
 32 youth and school activities, including, but not necessarily limited
 33 to, any of the following:

34 (A) The Girl Scouts; the Boy Scouts; ~~or~~ Camp Fire, ~~Inc.~~ USA;
 35 *or the YMCA.*

36 (B) A parent-teacher association.

37 (C) A school-community advisory council.

38 (2) This subdivision does not apply to a group that uses school
 39 facilities or grounds for fundraising activities that are not beneficial

1 to youth or public school activities of the school district, as
2 determined by the governing board.

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

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

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

19 (e) In the case of an entertainment or a meeting where an
20 admission fee is charged or contributions are solicited, and the net
21 receipts are not expended for the welfare of the pupils of the school
22 district or for charitable purposes, a charge equal to fair rental
23 value shall be levied for the use of the school facilities or grounds.

24 (f) If the use of school facilities or grounds under this section
25 results in the destruction of school property, the entity using the
26 school facilities or grounds may be charged for an amount
27 necessary to repay the damages, and further use of facilities or
28 grounds by that entity may be denied.

29 (g) As used in this section:

30 (1) "Direct costs" to the school district for the use of school
31 facilities or grounds means ~~those~~ *the* costs of supplies, utilities,
32 janitorial services, services of school district employees, and
33 salaries paid to school district employees *directly associated with*
34 *the administration of this section* necessitated by the entity's use
35 of the school facilities or grounds.

36 (2) "Fair rental value" means the direct costs to the school
37 district; plus the amortized costs of the school facilities or grounds
38 used for the duration of the activity authorized.

39 (h) (1) A school district authorizing the use of school facilities
40 or grounds under subdivision (a) is liable for an injury resulting

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

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

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