

ASSEMBLY BILL

No. 1557

Introduced by Assembly Member Mathis

January 4, 2016

An act to amend Section 38134 of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1557, as introduced, Mathis. School facilities: use by nonprofit youth organizations.

Existing law, known as the Civic Center Act, authorizes the governing board of a school district 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 of the school districts. The act requires the governing board of a school district to authorize the use of school facilities or grounds by a nonprofit organization, or by a club or an association organized to promote youth and school activities, including, but not necessarily limited to, the Girl Scouts, the Boy Scouts, Camp Fire USA, the YMCA, a parent-teacher association, or a school-community advisory council. The act authorizes and requires the governing board of a school district to charge certain fees for use of its school facilities or grounds.

This bill would provide that a governing board of a school district may only charge a nonprofit organization, club, or association primarily organized to promote youth and school activities, including, but not necessarily limited to, the organizations listed above, an amount not to exceed the school district's actual costs for janitorial services and utilities for the specific school facilities or grounds used.

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 38134 of the Education Code, as amended
2 by Section 2 of Chapter 764 of the Statutes of 2012, is amended
3 to read:

4 38134. (a) (1) The governing board of a school district shall
5 authorize the use of school facilities or grounds under its control
6 by a nonprofit organization, or by a club or an association
7 organized to promote youth and school activities, including, but
8 not necessarily limited to, any of the following:

9 (A) The Girl Scouts; the Boy Scouts; Camp Fire USA; or the
10 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~~. *board of the school district.*

17 (b) (1) Except as otherwise provided by *paragraph (2) or*
18 *elsewhere in law*, a governing board *of a school district* may charge
19 an amount not to exceed its direct costs for use of its school
20 facilities or ~~grounds~~. *grounds pursuant to this section.* A governing
21 board *of a school district* that levies these charges shall first adopt
22 a policy specifying which activities shall be charged an amount
23 not to exceed direct costs.

24 (2) *The governing board of a school district may only charge*
25 *a nonprofit organization, club, or association primarily organized*
26 *to promote youth and school activities, including, but not*
27 *necessarily limited to, the organizations listed in paragraph (1)*
28 *of subdivision (a), an amount not to exceed the school district's*
29 *actual costs for janitorial services and utilities for the specific*
30 *school facilities or grounds used pursuant to this section.*

31 (c) The governing board of a school district may charge an
32 amount, not to exceed its direct costs for use of its school facilities
33 or grounds by the entity using the school facilities or grounds,
34 including a religious organization or church, that arranges for and

1 supervises sports league activities for youths as described in
2 paragraph (6) of subdivision (b) of Section 38131.

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

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

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

18 (g) As used in this section:

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

21 (A) The share of the costs of supplies, utilities, janitorial
22 services, services of school district employees, and salaries paid
23 to school district employees directly associated with the
24 administration of this section to operate and maintain school
25 facilities or grounds that is proportional to the entity's use of the
26 school facilities or grounds under this section.

27 (B) The share of the costs for maintenance, repair, restoration,
28 and refurbishment, proportional to the use of the school facilities
29 or grounds by the entity using the school facilities or grounds under
30 this section as follows:

31 (i) For purposes of this subparagraph, "school facilities" shall
32 be limited to only nonclassroom space and "school grounds" shall
33 include, but not be limited to, playing fields, athletic fields, track
34 and field venues, tennis courts, and outdoor basketball courts.

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

37 (I) Classroom-based programs that operate after school hours,
38 including, but not limited to, after school programs, tutoring
39 programs, or child care programs.

1 (II) Organizations retained by the school or school district to
2 provide instruction or instructional activities to pupils during school
3 hours.

4 (iii) Funds collected under this subparagraph shall be deposited
5 into a special fund that shall only be used for purposes of this
6 section.

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

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

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

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

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

33 SEC. 2. Section 38134 of the Education Code, as added by
34 Section 3 of Chapter 764 of the Statutes of 2012, is amended to
35 read:

36 38134. (a) (1) The governing board of a school district shall
37 authorize the use of school facilities or grounds under its control
38 by a nonprofit organization, or by a club or an association
39 organized to promote youth and school activities, including, but
40 not necessarily limited to, any of the following:

1 (A) The Girl Scouts; the Boy Scouts; Camp Fire USA; or the
2 YMCA.

3 (B) A parent-teacher association.

4 (C) A school-community advisory council.

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

9 (b) (1) Except as otherwise provided by *paragraph (2) or*
10 *elsewhere in law*, a governing board of a school district may charge
11 an amount not to exceed its direct costs for use of its school
12 facilities or ~~grounds~~. *grounds pursuant to this section*. A governing
13 board of a school district that levies these charges shall first adopt
14 a policy specifying which activities shall be charged an amount
15 not to exceed direct costs.

16 (2) *The governing board of a school district may only charge*
17 *a nonprofit organization, club, or association primarily organized*
18 *to promote youth and school activities, including, but not*
19 *necessarily limited to, the organizations listed in paragraph (1)*
20 *of subdivision (a), an amount not to exceed the school district's*
21 *actual costs for janitorial services and utilities for the specific*
22 *school facilities or grounds used pursuant to this section*.

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

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

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

39 (f) If the use of school facilities or grounds under this section
40 results in the destruction of school property, the entity using the

1 school facilities or grounds may be charged for an amount
2 necessary to repay the damages, and further use of facilities or
3 grounds by that entity may be denied.

4 (g) As used in this section:

5 (1) “Direct costs” to the school district for the use of school
6 facilities or grounds means the costs of supplies, utilities, janitorial
7 services, services of school district employees, and salaries paid
8 to school district employees directly associated with the
9 administration of this section necessitated by the entity’s use of
10 the school facilities or grounds.

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

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

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

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