

AMENDED IN ASSEMBLY FEBRUARY 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1557**

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**Introduced by Assembly Member Mathis**

January 4, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1557, as amended, 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~~ utilities, and public safety services when deemed necessary, 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 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 pursuant to this section. A governing board  
21 of a school district that levies these charges shall first adopt a  
22 policy specifying which activities shall be charged an amount not  
23 to exceed direct costs.

24 (2) The governing board of a school district may only charge a  
25 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) of  
28 subdivision (a), an amount not to exceed the school district's actual  
29 costs for janitorial services and ~~utilities~~ utilities, and public safety  
30 services when deemed necessary, for the specific school facilities  
31 or grounds used pursuant to this section.

32 (c) The governing board of a school district may charge an  
33 amount, not to exceed its direct costs for use of its school facilities

1 or grounds by the entity using the school facilities or grounds,  
2 including a religious organization or church, that arranges for and  
3 supervises sports league activities for youths as described in  
4 paragraph (6) of subdivision (b) of Section 38131.

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

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

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

20 (g) As used in this section:

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

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

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

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

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

1 (I) Classroom-based programs that operate after school hours,  
2 including, but not limited to, after school programs, tutoring  
3 programs, or child care programs.

4 (II) Organizations retained by the school or school district to  
5 provide instruction or instructional activities to pupils during school  
6 hours.

7 (iii) Funds collected under this subparagraph shall be deposited  
8 into a special fund that shall only be used for purposes of this  
9 section.

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

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

18 (i) (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 injuries  
32 caused by a dangerous condition of public property.

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

36 SEC. 2. Section 38134 of the Education Code, as added by  
37 Section 3 of Chapter 764 of the Statutes of 2012, is amended to  
38 read:

39 38134. (a) (1) The governing board of a school district shall  
40 authorize the use of school facilities or grounds under its control

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

4 (A) The Girl Scouts; the Boy Scouts; Camp Fire USA; or the  
5 YMCA.

6 (B) A parent-teacher association.

7 (C) A school-community advisory council.

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

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

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

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

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

38 (e) In the case of an entertainment or a meeting where an  
39 admission fee is charged or contributions are solicited, and the net  
40 receipts are not expended for the welfare of the pupils of the school

1 district or for charitable purposes, a charge equal to fair rental  
2 value shall be levied for the use of the school facilities or grounds.

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

8 (g) As used in this section:

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