

SB 1404 AMENDS THE CIVIC CENTER ACT, ENABLING SCHOOLS TO RECOUP DIRECT COSTS

Governor Jerry Brown signed SB 1404 (Statutes of 2012, Chapter 764) into law on September 29, 2012, amending the Civic Center Act (“Act”) to expand the scope of costs that a K-12 school district can charge for use of its facilities. This amendment to the Act goes into effect on January 1, 2013, and the stated intent is “to encourage all school districts to maximize opportunities to make available and accessible public school facilities and grounds to their communities as civic centers.” However, the amendments do not affect the sections of the Civic Center Act that apply to community colleges.

Under the Civic Center Act, public schools must make non-classroom space at school facilities and grounds available to certain organizations, including certain nonprofit organizations and clubs serving youth and school activities. These include the Girl Scouts, Boy Scouts, Camp Fire USA, the YMCA, a parent-teacher association, or a school-community advisory council. Previously, schools were only required to make these facilities available “when an alternative location is not available.” As amended by this new law, the Civic Center Act will now require school districts to authorize the use of facilities or grounds by those organizations, regardless of the availability of an alternative location. This will mean that school districts may more often be called upon to provide the use of facilities to these groups.

School district governing boards are authorized by law to charge an amount not to exceed the direct costs for use of their facilities by any entity. Previously, the law defined “direct costs” as costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid to school district employees necessitated by the organization's use of the school district's facilities/grounds. For events where admission or contributions are paid by attendees and the receipts are used to benefit this district's students, districts are required to charge a fee equal to fair rental value, defined as the direct costs to the districts plus the amortized costs of the facilities or grounds used for the duration of the authorized activity.

The new amendments to the Act expand the definition of “direct costs” that a school district can charge, to include an amount for maintenance, repair, restoration, and refurbishment, proportional to the use of the school facilities or grounds. This only applies to the use of non-classroom space and will not apply to classroom-based programs that operate during after-school hours (e.g., after-school programs, tutoring programs, child care programs, etc.) or organizations retained by the school or district to provide instruction or instructional activities to pupils during school hours.

The intended effect of the added section is to enable school districts to charge more for the use of their facilities. Exactly how the fee is calculated will be determined through the regulatory process. Regulations must be adopted by the State Board of Education no later than December 31, 2013. Until regulations are adopted, school districts will operate without official guidance regarding the specific allowable costs includible as “direct costs” or how to calculate a proportional fee for facilities use.

Finally, the new law requires that funds collected for maintenance, repair, restoration and refurbishment must be deposited into a special fund designated for those specific purposes.

While these amendments to the Civic Center Act go into effect on January 1, 2013, they will only apply until January 1, 2020. After that date, the definition of “direct costs” will cease to include the amount for maintenance, repair, restoration and refurbishment, unless the legislature makes further changes to the law.

If you have questions regarding this *Briefing*, please contact your Keenan account manager.

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