



The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS

DATE: November 16-17, 2015

SUBJECT: AB 1906 Community College Property-Direct Costs for Use Regulations		Item Number: 2.10	
		Attachment: Yes	
CATEGORY:	College Finance and Facilities Planning	TYPE OF BOARD CONSIDERATION:	
Recommended By:	 Dan Troy, Vice Chancellor	Consent/Routine	
		First Reading	
Approved for Consideration:	 Brice W. Harris, Chancellor	Action	X
		Information	

ISSUE: This item adds sections 59601-59606 to the California Code of Regulations, title 5, to implement the statutory requirement of AB 1906 (Ch. 233, Statutes of 2014) regarding direct costs that can be charged by a community college district for use of its college facilities or grounds.

BACKGROUND: AB 1906 extended the definition of direct costs in section 82542 of the Education Code to include direct costs for maintenance, repair, restoration, and refurbishment proportional to the entity's use of the college facilities or grounds until January 1, 2020. AB 1906 also directed the Chancellor's Office to develop, and the Board of Governors to adopt by December 31, 2015, regulations for determining the proportionate share and allowable costs that a community college district may include as direct costs for the use of its college facilities or grounds.

RECOMMENDATION: The proposed regulations are presented to the Board of Governors for approval and adoption. The Board of Governors held a public hearing in September. No public comments were received during the hearing and no public comments were made during the public comment period of September 8 through October 25, 2015. It is recommended that the Board of Governors approve the following resolution:

Be it Resolved

The Board of Governors of the California Community Colleges, acting pursuant to Education Code sections 66700, 70901(c), 70901.5 and 78215, hereby:

- Approves the proposed regulations;
- Directs the Chancellor to file the regulations with the Secretary of State and submit the regulations to the Office of Administrative Law for printing unless the Department of Finance determines the regulations would create a state-mandated local program cost and is unable to certify to the Board of Governors and the Legislature that a source of funds is available to reimburse that cost as set forth in Education Code section 70901.5(a)(6);
- Authorizes the Chancellor to take any necessary ministerial actions to process these regulations; and
- Adopts the regulations effective thirty days after filing with the Secretary of State and submission of the regulations to the Office of the Administrative Law.

ANALYSIS: Community college districts have in the past been able to charge non-profit entities a fee for the use of its facilities and grounds not to exceed the districts' direct costs. Direct costs are defined as the share of the cost of supplies, utilities, janitorial services, services of any other district employees, and salaries paid to community college district employees to operate and maintain college facilities or grounds that is proportional to the organization's use of the college facilities and grounds. AB 1906 expands the definition of direct costs to allow community colleges to also reasonably recover a share of the maintenance, repair, restoration, and refurbishments costs integral to operating a facility or grounds.

The governing board of a community college district is entrusted with the management, direction, and control of the public use of community college facilities and grounds. Education Code section 82542 stipulates that the governing board of a district may elect to charge a fee not to exceed its direct costs or the fair rental value of college facilities and grounds for activities other than those specified in subdivision (a), which include, but are not limited to: student clubs and organizations; fundraising organizations or meetings, the profit of which is expended for the welfare of the students of the district; and parent-teachers' associations. Organizations affiliated with the community college district do not pay a fee for use of the district facilities or grounds but may be subject to reimbursement for additional costs such as staffing costs attributable to the organization's use of the facilities. Unaffiliated organizations, for fee purposes, are classified into three categories: civic groups, non-profit organizations, and for-profit organizations. Direct cost fee payers are generally non-profit organizations.

AB 1906 (Attachment 2) provides the same stipulations that were extended to K-12 school districts by SB 1404 (Ch. 764, Statutes of 2012). The State Board of Education began their rulemaking process in September 2013 for carrying out SB 1404 and adopted regulations in March 2014. The regulations went into effect on July 1, 2014.

Due to the parallel stipulations between AB 1906 for community college districts and SB 1404 for K-12 school districts, the Chancellor's Office has drafted its regulations based on the regulations adopted by the State Board of Education for SB 1404. These regulations will serve as the framework to assist community college districts with calculating the proportionate share and the direct costs associated with

the use of its college facilities or grounds while retaining the flexibility needed by community college districts to perform the necessary calculations for establishing their fees in their districts.

The proposed regulations (Attachment 1) were provided to the ACBO Facilities Task Force at their quarterly meeting in March 2015 and again in June for input and discussion. Overall, the consensus was in support of regulations that were coherent and consistent with those adopted by the State Board of Education for K-12 schools.

Attachments: proposed regulations (Attachment 1) and legislation AB 1906 (Attachment 2).