

ASSEMBLY BILL NO. 329—ASSEMBLYWOMAN HARDY

MARCH 17, 2021

Referred to Committee on Education

SUMMARY—Revises provisions relating to charter schools.
(BDR 34-732)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; authorizing a pupil to enroll in a program of full-time distance education offered by a school district in which the pupil does not reside; revising provisions relating to local educational agencies; revising provisions relating to prohibited activities by the Executive Director of the State Public Charter School Authority; prohibiting the limitation of enrollment of pupils at certain charter schools; revising various provisions relating to charter schools for distance education; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Education to approve a program of distance education that complies with applicable statutes and regulations. (NRS 388.838) Under existing law, a pupil may enroll in a program of distance education unless the pupil is ineligible for enrollment or fails to meet certain qualifications, conditions or requirements. (NRS 388.850) **Section 1** of this bill authorizes a pupil to enroll in a program of distance education provided by a school district in which the pupil does not reside.

Existing law establishes various provisions related to a charter school for distance education. (NRS 388A.725, 388A.735, 388A.740) **Section 6** of this bill prohibits the State Public Charter School Authority from limiting the number of pupils eligible for enrollment at a charter school for distance education. **Section 6** also provides that a college or university within the Nevada System of Higher Education may sponsor a charter school for distance education. **Section 7** of this bill provides that a college or university within the Nevada System of Higher Education may be deemed a local educational agency for certain purposes. **Section 8** of this bill removes a requirement for the Department of Education to adopt



regulations relating to the difference between operating charter schools for distance education and traditional charter schools.

Existing law deems the State Public Charter School Authority a local educational agency for all purposes. (NRS 388A.159) **Section 2** of this bill provides that a college or university within the Nevada System of Higher Education is deemed a local educational agency if it provides the services of a local educational agency. Existing law authorizes a college or university within the Nevada System of Education to sponsor a charter school and requires the college or university to submit an application for such a sponsorship to the Department of Education. (NRS 388A.220) **Section 4** of this bill provides for the denial of such an application in certain circumstances.

Existing law authorizes the Executive Director of the State Public Charter School Authority to pursue any other business or occupation or hold any other office with the approval of the State Public Charter School Authority. (NRS 388A.193) **Section 3** of this bill instead authorizes the Executive Director and other employees of the State Public Charter School Authority to pursue certain other businesses or occupations or hold other offices with the written approval of the Chair of the State Public Charter School Authority.

Under existing law, the sponsor of a charter school that amends a written charter or charter contract to eliminate certain grade levels must limit the enrollment in all other grade levels in the charter school. (NRS 388A.330) **Section 5** of this bill removes that requirement and prohibits the limitation of enrollment at a charter school.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 388.850 is hereby amended to read as follows:
388.850 1. A pupil may enroll in a program of distance education unless:

(a) Pursuant to this section or other specific statute, the pupil is not eligible for enrollment or the pupil's enrollment is otherwise prohibited;

(b) The pupil fails to satisfy the qualifications and conditions for enrollment adopted by the State Board pursuant to NRS 388.874; or

(c) The pupil fails to satisfy the requirements of the program of distance education.

2. A child who is exempt from compulsory attendance and is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether the child is otherwise eligible for enrollment pursuant to subsection 1.

3. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.150, inclusive, and 392.251 to 392.271, inclusive.



1 **4. A pupil may enroll in a program of distance education**
2 **provided by a school district in which the pupil does not reside.**

3 **Sec. 2.** NRS 388A.159 is hereby amended to read as follows:

4 388A.159 1. The State Public Charter School Authority is
5 hereby deemed a local educational agency for all purposes,
6 including, without limitation:

7 (a) The provision of a free and appropriate public education to
8 each pupil enrolled in a charter school sponsored by the State Public
9 Charter School Authority;

10 (b) The provision of special education and related services
11 provided by a charter school sponsored by the State Public Charter
12 School Authority; and

13 (c) Directing the proportionate share of any money available
14 from federal and state categorical grant programs to charter schools
15 ~~{which}~~ **that are eligible to receive such money and** are sponsored
16 by the State Public Charter School Authority or a college or
17 university within the Nevada System of Higher Education that ~~{are~~
18 ~~eligible to receive such money.}~~ **has entered into an agreement**
19 **pursuant to subsection 2.**

20 2. A college or university within the Nevada System of Higher
21 Education that sponsors a charter school ~~{shall}~~ **may** enter into an
22 agreement with the State Public Charter School Authority , **any**
23 **other local educational agency or another organization** for the
24 provision of any necessary functions of a local educational agency
25 ~~{}~~ **or provide the functions of a local educational agency itself. A**
26 **college or university within the Nevada System of Higher**
27 **Education that provides the functions of a local educational**
28 **agency itself shall be deemed a local educational agency for all**
29 **purposes, including, without limitation, those purposes listed in**
30 **subsection 1.**

31 3. A charter school that receives money pursuant to ~~{such}~~ a
32 grant program shall comply with any applicable reporting
33 requirements to receive the grant.

34 ~~{3}~~ 4. As used in this section, "local educational agency" has
35 the meaning ascribed to it in 20 U.S.C. § 7801(30)(A).

36 **Sec. 3.** NRS 388A.193 is hereby amended to read as follows:

37 388A.193 With the **written** approval of the **Chair of the** State
38 Public Charter School Authority, the Executive Director **or an**
39 **employee of the State Public Charter School Authority** may pursue
40 any other business or occupation or hold any other office, including,
41 without limitation, serving as a member on a committee, board or
42 task force of an organization relating to charter schools, serving as a
43 reviewer of applications to form a charter school for organizations
44 other than the State Public Charter School Authority and holding an
45 office of profit, and may accept reimbursement for travel costs



relating to such activities. The Executive Director *or an employee of the State Public Charter School Authority* shall not pursue any other business or occupation or hold any other office of profit without the *written* approval of the *Chair of the* State Public Charter School Authority. *The Executive Director or an employee of the State Public Charter School Authority shall not pursue any business or occupation, or otherwise accept payment or anything of value from any person or entity that is a vendor to the State Public Charter School Authority, may seek to be a vendor to the State Public Charter School Authority or seeks to influence the policies of the State Public Charter School Authority.*

Sec. 4. NRS 388A.220 is hereby amended to read as follows:

388A.220 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district in accordance with the regulations adopted by the Department pursuant to NRS 388A.105 or 388A.110. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The State Public Charter School Authority shall sponsor charter schools whose applications have been approved by the State Public Charter School Authority pursuant to NRS 388A.255. Except as otherwise provided by specific statute, if the State Public Charter School Authority sponsors a charter school, the State Public Charter School Authority is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may submit an application to the Department to sponsor charter schools in accordance with the regulations adopted by the Department pursuant to NRS 388A.105 or 388A.110. An application must be approved by the Department before a college or university within the Nevada System of Higher Education may sponsor charter schools. *An application may be denied by the Department only if the application submitted by the college or university does not comply with the provisions of this chapter.*

4. The board of trustees of a school district or a college or university within the Nevada System of Higher Education may enter into an agreement with the State Public Charter School Authority to provide technical assistance and support in preparing an application to sponsor a charter school and planning and executing the duties of a sponsor of a charter school as prescribed in this section.

5. Before a board of trustees of a school district or a college or university within the Nevada System of Higher Education that is



approved to sponsor charter schools approves an application to form a charter school, the board of trustees or college or university, as applicable, shall prepare, in collaboration with the Department and, to the extent practicable, the school district in which the proposed charter school will be located and any other sponsor of a charter school located in that school district, an evaluation of demographic information of pupils, the academic needs of pupils and the needs of any pupils who are at risk of dropping out of school in the geographic areas served by the sponsor.

6. On or before January 31 of each year, the State Public Charter School Authority shall prepare, in collaboration with the Department and, to the extent practicable, the board of trustees of each school district in this State and any other sponsor of a charter school in this State, an evaluation of demographic information of pupils, the academic needs of pupils and the needs of any pupils who are at risk of dropping out of school in this State.

Sec. 5. NRS 388A.330 is hereby amended to read as follows:
388A.330 Except as otherwise provided in NRS 388A.300:

1. Except as otherwise provided in subsection 6, the sponsor of a charter school may reconstitute the governing body of a charter school or terminate a charter contract before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees:

(1) Committed a material breach of the terms and conditions of the charter contract;

(2) Failed to comply with generally accepted standards of fiscal management;

(3) Failed to comply with the provisions of this chapter or any other statute or regulation applicable to charter schools; or

(4) Has persistently underperformed, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate;

(c) There is reasonable cause to believe that reconstitution or termination is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located;

(d) The committee to form the charter school or charter management organization, as applicable, or any member of the committee to form the charter school or charter management



organization, as applicable, or the governing body of the charter school has at any time made a material misrepresentation or omission concerning any information disclosed to the sponsor;

(e) The charter school operates a high school that has a graduation rate for the immediately preceding school year that is less than 60 percent;

(f) The charter school operates an elementary or middle school or junior high school that is rated in the lowest 5 percent of elementary schools, middle schools or junior high schools in the State in pupil achievement and school performance, as determined by the Department pursuant to the statewide system of accountability for public schools; or

(g) Pupil achievement and school performance at the charter school is unsatisfactory as determined by the Department pursuant to criteria prescribed by regulation by the Department to measure the performance of any public school pursuant to the statewide system of accountability for public schools.

2. Before the sponsor reconstitutes a governing body or terminates a charter contract, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to reconstitute the governing body or terminate the charter contract.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to reconstitute the governing body or terminate the charter contract. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not reconstitute the governing body or terminate the charter contract of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous



1 written notice and which was corrected by the charter school, unless
2 the deficiency recurred after being corrected or the sponsor
3 determines that the deficiency is evidence of an ongoing pattern of
4 deficiencies in a particular area.

5 4. The sponsor of a charter school and the governing body of
6 the charter school may enter into a written agreement that prescribes
7 different time periods than those set forth in subsections 2 and 3.

8 5. If the governing body of a charter school is reconstituted or
9 the charter contract is terminated, the sponsor of the charter school
10 shall submit a written report to the Department and the governing
11 body of the charter school setting forth the reasons for the
12 reconstitution or termination, as applicable, not later than 10 days
13 after reconstituting the governing body or terminating the charter
14 contract.

15 6. The governing body of a charter school may not be
16 reconstituted if it has been previously reconstituted.

17 7. If the sponsor of a charter school determines that not all of
18 the grade levels in the charter school meet the criteria described in
19 paragraphs (a) to (g), inclusive, of subsection 1 and that the charter
20 school can remain financially viable if the charter school continues
21 to operate and serve only the grade levels which do not meet the
22 criteria described in those paragraphs, the sponsor may amend the
23 charter contract to eliminate the grade levels that meet the criteria
24 described in paragraphs (a) to (g), inclusive, of subsection 1 . ~~and~~
25 ~~limit the enrollment in all other grade levels in the charter school.~~

26 8. *The sponsor of a charter school shall not limit the*
27 *enrollment at a charter school or any grade level within the*
28 *charter school or condition any action, including, without*
29 *limitation, the amendment of a charter contract pursuant to this*
30 *section, on the acceptance by a charter school of a limitation on*
31 *enrollment at the charter school or any grade level within the*
32 *charter school.*

33 **Sec. 6.** NRS 388A.725 is hereby amended to read as follows:

34 388A.725 1. A charter school that is sponsored by the State
35 Public Charter School Authority ~~or~~ *or a college or university within*
36 *the Nevada System of Higher Education*, or a committee to form a
37 charter school or charter management organization that has
38 submitted an application to be sponsored by the State Public Charter
39 School Authority ~~or~~ *or a college or university within the Nevada*
40 *System of Higher Education*, may apply to the State Public Charter
41 School Authority *or the college or university within the Nevada*
42 *System of Higher Education that is the sponsor or proposed*
43 *sponsor of the charter school* for authorization to operate as a
44 charter school for distance education. The charter school, committee
45 to form a charter school or charter management organization shall



1 include in its application to the State Public Charter School
2 Authority *or the college or university within the Nevada System of*
3 *Higher Education that is the sponsor or proposed sponsor of the*
4 *charter school* a description of:

5 (a) The support available to each pupil, in his or her home or
6 community, including, without limitation, the availability and
7 frequency of interactions between the pupil and teachers;

8 (b) The methods the charter school for distance education will
9 use to administer any test, exam or assessment required by state or
10 federal law;

11 (c) The methods the charter school for distance education will
12 use to assess the academic success of pupils; and

13 (d) The criteria pupils must meet to be eligible for enrollment at
14 the charter school for distance education and the process for
15 accepting pupils.

16 2. The State Public Charter School Authority *or a college or*
17 *university within the Nevada System of Higher Education that*
18 *receives an application to operate as a charter school for distance*
19 *education pursuant to subsection 1* may authorize:

20 (a) A charter school to operate as a charter school for distance
21 education if the charter school satisfies the requirements of
22 subsection 1.

23 (b) A committee to form a charter school or a charter
24 management organization to form or operate, as applicable, a charter
25 school for distance education if the committee to form a
26 charter school or charter management organization satisfies the
27 requirements of subsection 1 and of subsection 3 of NRS 388A.249.

28 3. The State Public Charter School Authority shall adopt a
29 standard charter contract that meets the requirements for charter
30 contracts pursuant to NRS 388A.270 to be used for each charter
31 school for distance education *or sponsored by the State Public*
32 *Charter School Authority. A college or university within the*
33 *Nevada System of Higher Education shall use the standard*
34 *charter contract developed by the State Public Charter School*
35 *Authority or adopt a standard contract that meets the*
36 *requirements for charter contracts pursuant to NRS 388A.270 to*
37 *be used for each charter school for distance education sponsored*
38 *by the college or university within the Nevada System of Higher*
39 *Education.*

40 4. In addition to any other provisions required by law, a charter
41 contract to operate a charter school for distance education entered
42 into on or after July 31, 2019, must include a description of:

43 (a) The support available to each pupil, in his or her home or
44 community, including, without limitation, the availability and
45 frequency of interactions between the pupil and teachers;



(b) The methods the charter school for distance education will use to administer any test, exam or assessment required by state or federal law;

(c) The methods the charter school for distance education will use to assess the academic success of pupils; and

(d) The criteria pupils must meet to be eligible for enrollment at the charter school for distance education and the process for accepting pupils.

5. *The State Public Charter School Authority may not limit the number of pupils eligible for enrollment at a charter school for distance education.*

Sec. 7. NRS 388A.735 is hereby amended to read as follows:

388A.735 1. Except as otherwise provided in subsection 2, the State Public Charter School Authority ***or a college or university within the Nevada System of Higher Education*** is hereby deemed a local educational agency for all charter schools for distance education which are sponsored by the State Public Charter School Authority ~~or~~ ***or the college or university within the Nevada System of Higher Education.***

2. The Department may adopt regulations to deem a charter school for distance education sponsored by the State Public Charter School Authority ***or a college or university within the Nevada System of Higher Education*** a local educational authority. Such a determination must be made on or before March 1 of each even-numbered year and does not become effective until July 1 of the next even-numbered year.

Sec. 8. NRS 388A.740 is hereby amended to read as follows:

388A.740 The Department shall adopt any regulations necessary to carry out the provisions of NRS 388A.462 and 388A.700 to 388A.740, inclusive, including, without limitation, regulations for:

1. ~~The~~ ***Except with respect to a charter school for distance education sponsored by a college or university within the Nevada System of Higher Education,*** delegation of oversight responsibilities to any subcommittee of the State Public Charter School Authority.

2. ~~Establishing different requirements for the operation or regulation of or any other matter that requires the different treatment of charter schools for distance education sponsored by the State Public Charter School Authority and traditional charter schools sponsored by the State Public Charter School Authority.~~

~~—3.—~~ Determining when a pupil enrolled at a charter school for distance education may be suspended or expelled from such charter school pursuant to NRS 388A.495 for failing to actively participate in the charter school for distance education.



1 **Sec. 9.** This act becomes effective on July 1, 2021.

