

Amendment No. 41

Assembly Amendment to Assembly Bill No. 68	(BDR 34-286)
Proposed by: Assembly Committee on Education	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAS/AAK



Date: 4/6/2021

A.B. No. 68—Makes various changes relating to charter schools. (BDR 34-286)



ASSEMBLY BILL NO. 68—COMMITTEE ON EDUCATION

(ON BEHALF OF THE STATE PUBLIC
CHARTER SCHOOL AUTHORITY)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Education

SUMMARY—Makes various changes relating to charter schools. (BDR 34-286)

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; increasing the period within which a meeting must be held by the State Public Charter School Authority to consider an application to form a charter school; exempting certain charter schools from certain performance frameworks; authorizing the sponsor of a charter school to eliminate certain ~~[grade levels and]~~ *elementary, middle or high schools in or* campuses ~~[in]~~ of a charter school in certain circumstances; revising provisions relating to the performance of a charter school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a committee to form a charter school or a charter management organization to submit an application to form a charter school to the State Public Charter School Authority, and upon approval of the application, the Authority becomes the sponsor of the charter school. (NRS 388A.249, 388A.255) **Section 1** of this bill requires the meeting held by the State Public Charter School Authority to consider such an application to occur not later than 120 days, rather than 60 days, after it receives the application.

Existing law requires: (1) each public school, including, without limitation, a charter school, to be rated pursuant to the statewide system of accountability for public schools; and (2) the charter contract of each charter school to incorporate a performance framework for the school. (NRS 385A.600, 388A.270) Existing law also authorizes a charter school to request to be rated using an alternative performance framework if the charter school meets certain requirements. (NRS 385A.730, 385A.740, 388A.274) Additionally, existing law requires the State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, to deny a request to amend a charter contract if the charter school does not meet certain requirements of the performance framework. (NRS 388A.279) Existing law also requires the sponsor of a charter school to terminate the charter contract or restart the charter school under a new charter contract if the charter school receives certain ratings indicating underperformance of the school. (NRS 388A.300) **Section 2** of this bill exempts a charter school that has been approved to be rated using the alternative performance framework from those requirements. **Sections 3 and 4** of this bill make conforming changes to carry out the exemption.

Existing law authorizes the sponsor of a charter school to reconstitute the governing body of a charter school or terminate the contract of a charter school before the expiration of the charter if the sponsor determines that certain criteria are met. Existing law also authorizes the sponsor of a charter school to amend the charter contract to eliminate certain grade levels in the charter school if the sponsor determines that not all of the grade levels meet the criteria for reconstitution or termination. (NRS 388A.330) **Section 5** of this bill authorizes the sponsor of a charter school to also eliminate elementary, middle or high schools in or campuses of a charter school in such circumstances. Similarly, **section 4** of this bill authorizes the sponsor of a charter school to eliminate only the ~~grade levels in and~~ elementary, middle or high schools in or campuses of a charter school that meet the criteria for termination of the charter contract or restarting of the charter school under a new charter contract. **Section 5** also eliminates duplicative language regarding under performance of a charter school.

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

Section 1. NRS 388A.255 is hereby amended to read as follows:

388A.255 1. If the State Public Charter School Authority receives an application pursuant to subsection 1 of NRS 388A.249 or subsection 4 of NRS 388A.252, it shall consider the application at a meeting which must be held not later than ~~60~~ **120** days after receipt of the application or a later period mutually agreed upon by the committee to form the charter school and the State Public Charter School Authority. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Public Charter School Authority shall review the application in accordance with the requirements for review set forth in subsections 2 and 3 of NRS 388A.249. The State Public Charter School Authority may approve an application only if the requirements of subsection 3 of NRS 388A.249 are satisfied. Not more than 30 days after the meeting, the State Public Charter School Authority shall provide written notice of its determination to the applicant.

2. If the State Public Charter School Authority denies or fails to act upon an application, the denial or failure to act must be based upon a finding that the requirements of subsection 3 of NRS 388A.249 have not been satisfied. The State Public Charter School Authority shall include in the written notice the reasons for the denial or the failure to act and the deficiencies. The staff designated by the State Public Charter School Authority shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

3. If the State Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection 2, the applicant may, not more than 30 days after the receipt of the written notice from the State Public Charter School Authority, appeal the final determination to the district court of the county in which the proposed charter school will be located.

Sec. 2. NRS 388A.274 is hereby amended to read as follows:

388A.274 1. If a charter school wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730, the governing body of the charter school may submit to the sponsor of the charter school a request to amend the charter contract of the charter school pursuant to NRS 388A.276 to include the mission statement and admissions policy required by subsection 4 of NRS 385A.740.

2. The sponsor of a charter school may require that:

1 (a) A request to amend a charter contract described in subsection 1 also include
2 such changes to the academic program, organizational plan and financial model of
3 the charter school as the sponsor of the charter school determines are necessary for
4 a charter school rated using the alternative performance framework; and

5 (b) A charter school which submits a request to amend a charter contract
6 described in subsection 1 perform such actions as the sponsor of the charter school
7 determines to be necessary to successfully transition to being rated using the
8 alternative performance framework.

9 3. The sponsor of a charter school shall evaluate a request to amend a charter
10 contract described in subsection 1 by reviewing the academic, organizational and
11 financial performance of the charter school. If the sponsor of the charter school
12 determines that the charter school is unlikely to achieve academic, organizational or
13 financial success if the request to amend its charter contract is approved, the
14 sponsor of the charter school must deny the request.

15 4. Unless invited to do so by the sponsor of the charter school, the governing
16 body of a charter school whose request to amend its charter contract is denied
17 pursuant to subsection 3 may not submit a materially similar request for 1 year after
18 the denial of its request.

19 5. If a proposed sponsor of a charter school approves an application to form a
20 charter school and the proposed sponsor of the charter school determines that the
21 charter school has a mission statement and an admissions policy which satisfy the
22 requirements of subsection 4 of NRS 385A.740, the proposed sponsor of the charter
23 school shall include language in the charter contract entered into with the charter
24 school which provides that:

25 (a) Except as otherwise provided in paragraph (b), the proposed sponsor of the
26 charter school will submit an application to the State Board on behalf of the charter
27 school for the charter school to be rated using the alternative performance
28 framework within 2 years after the charter school commences operation;

29 (b) The proposed sponsor of the charter school will submit the application
30 described in paragraph (a) only upon the successful completion by the charter
31 school of such actions as the proposed sponsor of the charter school determines to
32 be necessary to successfully transition to being rated using the alternative
33 performance framework; and

34 (c) Upon approval of such an application by the State Board, the performance
35 framework adopted by the proposed sponsor of the charter school will be replaced
36 by the alternative performance framework.

37 ***6. A charter school that is rated using the alternative performance***
38 ***framework pursuant to NRS 385A.730 is exempt from the provisions of***
39 ***paragraph (a) of subsection 3 of NRS 388A.279 and subsection 1 of NRS***
40 ***388A.300.***

41 **Sec. 3.** NRS 388A.279 is hereby amended to read as follows:

42 388A.279 1. The State Public Charter School Authority, the board of
43 trustees of the school district or a college or university within the Nevada System of
44 Higher Education, as applicable, which sponsors a charter school may hold a public
45 hearing concerning any request to amend a charter contract of the charter school it
46 sponsors, including, without limitation, a request to amend a charter contract for the
47 purpose of:

48 (a) Expanding the charter school to offer instruction in grade levels for which
49 the charter school does not already offer instruction.

50 (b) Increasing the total enrollment of a charter school or the enrollment of
51 pupils in a particular grade level in the charter school for a school year to more than
52 120 percent of the enrollment prescribed in the charter contract for that school year.

(c) Reducing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to less than 80 percent of the enrollment prescribed in the charter contract for that school year.

(d) Seeking to acquire an additional facility in any county of this State to expand the enrollment of the charter school.

(e) Consolidating the operations of multiple charter schools pursuant to NRS 388A.282.

2. A charter contract may not be amended in any manner described in subsection 1 unless the amendment is approved by the State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable.

3. The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, must deny a request to amend a charter contract in the manner described in paragraph (d) or (e) of subsection 1 if the State Public Charter School Authority, the board of trustees or a college or university within the Nevada System of Higher Education, as applicable, determines that:

(a) ~~[[The]]~~ *Except as otherwise provided in subsection 6 of NRS 388A.274, the* charter school is not meeting the requirements of the performance framework concerning academics, finances or organization established pursuant to NRS 388A.273; or

(b) The governing body does not have a comprehensive and feasible plan to operate additional facilities.

Sec. 4. NRS 388A.300 is hereby amended to read as follows:

388A.300 1. ~~[[The]]~~ *Except as otherwise provided in subsection 6 and subsection 6 of NRS 388A.274, the* sponsor of a charter school shall terminate the charter contract of the charter school or restart the charter school under a new charter contract if the charter school receives, in any period of 5 consecutive school years, three annual ratings established as the lowest rating possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools.

2. A charter school's annual rating pursuant to the statewide system of accountability based upon the performance of the charter school must not be included in the count of annual ratings for the purposes of subsection 1 for any school year before the 2015-2016 school year.

3. If a charter contract is terminated or a charter school is restarted pursuant to subsection 1, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the termination or restart of the charter school not later than 10 days after terminating the charter contract or restarting the charter school.

4. The provisions of NRS 388A.330 do not apply to the termination of a charter contract or restart of the charter school pursuant to this section.

5. The Department shall adopt regulations governing procedures to restart a charter school under a new charter contract pursuant to subsection 1. Such regulations must include, without limitation, requiring a charter school that is restarted to enroll a pupil who was enrolled in the charter school before the school was restarted before any other eligible pupil is enrolled.

6. *If the sponsor of a charter school determines that not all of the ~~[[grade levels]]~~ elementary, middle or high schools in or campuses of the charter school meet the criteria described in subsection 1 and that the charter school can remain financially viable if the charter school continues to operate and serve only the ~~[[grade levels]]~~ elementary, middle or high schools or campuses which do not meet the criteria described in subsection 1, the sponsor may amend the charter*

1 *contract to eliminate the ~~[grade levels]~~ elementary, middle or high schools or*
2 *campuses that meet the criteria described in subsection 1 and limit the enrollment*
3 *in all other ~~[grade levels]~~ elementary, middle or high schools in or campuses of*
4 *the charter school.*

5 **Sec. 5.** NRS 388A.330 is hereby amended to read as follows:

6 388A.330 Except as otherwise provided in NRS 388A.300:

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

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

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

13 (2) Failed to comply with generally accepted standards of fiscal
14 management; *or*

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

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

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

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

28 (d) The committee to form the charter school or charter management
29 organization, as applicable, or any member of the committee to form the charter
30 school or charter management organization, as applicable, or the governing body of
31 the charter school has at any time made a material misrepresentation or omission
32 concerning any information disclosed to the sponsor;

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

35 (f) The charter school operates an elementary or middle school or junior high
36 school that is rated in the lowest 5 percent of elementary schools, middle schools or
37 junior high schools in the State in pupil achievement and school performance ~~[.]~~ *for*
38 *the immediately preceding school year*, as determined by the Department pursuant
39 to the statewide system of accountability for public schools; or

40 (g) ~~[Pupil achievement and school performance at the]~~ *The* charter school ~~is~~
41 ~~unsatisfactory]~~ *has persistently underperformed, including, without limitation,*
42 *underperformance in pupil achievement and school performance*, as determined
43 by the Department pursuant to criteria prescribed by regulation. ~~[by the~~
44 ~~Department to measure the performance of any public school pursuant to the~~
45 ~~statewide system of accountability for public schools.]~~

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

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

51 (b) Except as otherwise provided in subsection 4, prescribe a period, not less
52 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 written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected or the sponsor determines that the deficiency is evidence of an ongoing pattern of deficiencies in a particular area.

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

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

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

7. If the sponsor of a charter school determines that not all of the ~~[grade levels]~~ elementary, middle or high schools in or campuses of the charter school meet the criteria described in paragraphs (a) to (g), inclusive, of subsection 1 and that the charter school can remain financially viable if the charter school continues to operate and serve only the ~~[grade levels]~~ elementary, middle or high schools or campuses which do not meet the criteria described in those paragraphs, the sponsor may amend the charter contract to eliminate the ~~[grade levels]~~ elementary, middle or high schools or campuses that meet the criteria described in paragraphs (a) to (g), inclusive, of subsection 1 and limit the enrollment in all other ~~[grade levels]~~ elementary, middle or high schools in or campuses of the charter school.

Sec. 6. This act becomes effective on July 1, 2021.