

ASSEMBLY BILL NO. 296—ASSEMBLYMEN D’SILVA; AND TORRES

MARCH 14, 2023

Referred to Committee on Education

SUMMARY—Revises provisions governing instructional time in public schools. (BDR 34-607)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; prohibiting the counting of a pupil for apportionment purposes unless the pupil receives a certain amount of instructional time; requiring the Department of Education to adopt regulations limiting the amount of time used to prepare for and conduct certain examination and assessments; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires, in general, the count of pupils for apportionment purposes to include all pupils enrolled in a school district in kindergarten and grades 1 to 12, inclusive, with certain exceptions. (NRS 387.123) **Section 1** of this bill requires a pupil to be excluded from the count of pupils for apportionment purposes if the pupil is enrolled in kindergarten or grades 1 to 12, inclusive, if less than 98 percent of the time the pupil spends in class is instructional time, which is defined by **section 1** to be the time during a school day used for providing instruction to a pupil and excludes, with certain exceptions, time spent conducting or preparing for examinations or assessments.

Existing law requires the administration of certain examinations and assessments to measure the achievement and proficiency of pupils in various subjects. (NRS 390.055, 390.105) Existing law also requires the Department of Education to adopt regulations limiting the time taken from instruction to conduct an examination or assessment. (NRS 390.805) **Section 2** of this bill requires such regulations to limit, with certain exceptions, the time used for conducting or preparing for an examination or assessment to 2 percent or less of the total number of annual minutes of attendance required for a pupil.



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

Section 1. NRS 387.123 is hereby amended to read as follows:

387.123 1. ~~[The]~~ *Except as otherwise provided in subsection 2 or 3, the* count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, pupils who are enrolled in a university school for profoundly gifted pupils located in the county and pupils who are enrolled in a challenge school located in the county, for:

(a) Pupils in the kindergarten department.

(b) Pupils in grades 1 to 12, inclusive.

(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.417 to 388.469, inclusive, and 388.5251 to 388.5267, inclusive.

(d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection 1 of NRS 388A.471 and pupils who are enrolled in classes pursuant to subsection 1 of NRS 388A.474.

(g) Pupils who are enrolled in classes pursuant to subsection 1 of NRS 392.074.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

(i) Pupils who are enrolled in a challenge school.

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. Except as otherwise provided in this subsection, in establishing such regulations for the public schools, the State Board:

(a) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(b) Shall prohibit the counting of any pupil specified in subsection 1 more than once.



(c) Except as otherwise provided in this paragraph, shall prohibit the counting of a pupil enrolled in grade 12 as a full-time pupil if the pupil is not prepared for college and career success, as defined by the Department. Such a pupil may be counted as a full-time pupil if he or she is enrolled in a minimum of six courses or the equivalent of six periods per day or the superintendent of the school district has approved enrollment in fewer courses for good cause.

3. The count of pupils for apportionment purposes pursuant to subsection 1 must exclude any pupil who is enrolled in kindergarten or grades 1 to 12, inclusive, if less than 98 percent of the time the pupil spends in class is instructional time.

4. As used in this section, "instructional time" means time during a school day used for providing instruction to a pupil. Except as otherwise required by the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1703(f), the term:

(a) Includes time used for conducting or preparing for an examination or assessment for a pupil who is being administered an examination or assessment as a result of the pupil participating in:

(1) An advanced placement course;

(2) A program of career and technical education; or

(3) Any plan, procedure, program or service for the purpose of improving the literacy of pupils enrolled in elementary school pursuant to NRS 388.157; and

(b) Does not include any time used for preparing for or conducting any other examination or assessment which is required by federal or state law or by the board of trustees of a school district or governing body of a charter school or university school for profoundly gifted pupils.

Sec. 2. NRS 390.805 is hereby amended to read as follows:

390.805 1. The Department shall adopt regulations that, for an examination or assessment administered pursuant to this chapter or required to be administered by the board of trustees of a school district, the governing body of a charter school or a public school on a district-wide or school-wide basis, as applicable, prescribe limits on the:

(a) Actual time taken from ~~[instruction]~~ *a school day* to conduct *or prepare for* an examination or assessment; and

(b) Number of examinations or assessments administered to pupils in a school year.

2. The regulations adopted by the Department pursuant to subsection 1 must:



(a) Except as otherwise provided in paragraph (b), prohibit using more than 2 percent of the total number of annual minutes of attendance required for a pupil for conducting or preparing for an examination or assessment; and

(b) Provide exceptions from the limitation described in paragraph (a):

(1) That are necessary to comply with the requirements of federal law, including, without limitation, the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1703(f); and

(2) For a pupil who is being administered an examination or assessment as a result of the pupil participating in:

(I) An advanced placement course;

(II) A program of career and technical education; or

(III) Any plan, procedure, program or service for the purpose of improving the literacy of pupils enrolled in elementary school pursuant to NRS 388.157.

3. If the board of trustees of a school district or the governing body of a charter school intends to administer an examination or assessment that would exceed a limitation in a regulation adopted by the Department pursuant to subsection 1, the board of trustees of the school district or the governing body of the charter school must request a waiver from the State Board to exceed the limitation. The State Board may grant a waiver requested pursuant to this subsection if the State Board deems it appropriate.

Sec. 3. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 4. This act becomes effective on July 1, 2023.

