

ASSEMBLY BILL NO. 423—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 27, 2023

Referred to Committee on Education

SUMMARY—Revises provisions governing meetings of a board of trustees of a school district. (BDR 34-847)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 the boards of trustees of school districts; restricting, with certain exceptions, the time of day during which the board of trustees of a school district may take action or corrective action at a regular or special meeting; authorizing, under certain circumstances, the board of trustees to restrict certain public comment at a regular or special meeting; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Open Meeting Law requires that a public body such as the board of trustees of a school district give notice of its meetings by: (1) posting an agenda consisting of a list describing the items on which action may be taken by the public body; and (2) clearly denoting that action may be taken on those items by placing the term “for possible action” next to the appropriate item or, under certain circumstances, by placing the term “for possible corrective action” next to the appropriate item. (NRS 241.015, 241.020) Existing law sets forth certain requirements and procedures for meetings of the board of trustees of a school district, including, without limitation: (1) a requirement that the board of trustees hold a regular meeting at least once each month; and (2) the authority for the president of the board of trustees to call special meetings under certain circumstances. (NRS 386.330) **Section 1** of this bill prohibits, except in an emergency that impacts the school district, the board of trustees of a school district from taking any action or corrective action at a regular meeting or special meeting on an item that has been posted on its agenda pursuant to the Open Meeting Law after 11:59 p.m. on the day of the meeting. **Section 1** further provides that if the board of trustees has not taken action or corrective action, as applicable, on any item that is on its agenda before 11:59 p.m. on the day of the meeting, the board of trustees must not take any further action or corrective action on any item that is on



the meeting agenda unless the board of trustees: (1) schedules the delayed agenda item at a future meeting; or (2) waits at least 24 hours after the originally scheduled time of the meeting but not later than 3 business days after the originally scheduled date of the meeting to take action or corrective action.

The United States Constitution and the Nevada Constitution protect the freedom of speech but a public body may, under certain circumstances, limit speech at a public meeting. (U.S. Const. Amend. I; Nev. Const. Art. 1, § 9; *Minnesota State Bd. for Community Colleges v. Knight*, 465 U.S. 271, 281-85 (1984); *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990)) Under existing case law, a public body may: (1) impose reasonable time, place and manner restrictions that are viewpoint neutral and maintain decorum and order; and (2) limit public comment that is not relevant to or within the authority of the public body. (*Norwalk* at 1425; *Reza v. Pearce*, 806 F.3d 497, 503-04 (9th Cir. 2015); see also OMLO 2001-22 (12-17-2002); *Nevada Open Meeting Law Manual*, § 8.05 (11th ed. 2012)) However, existing case law prohibits a public body from restricting public comment that is slanderous or offensive unless such public comment causes an actual disturbance at the meeting. (*Acosta v. City of Costa Mesa*, 718 F.3d 800, 813 (9th Cir. 2013)) Consistent with existing case law, the Open Meeting Law authorizes the removal from a meeting of a public body any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical. (NRS 241.030) **Section 1** authorizes a board of trustees of a school district, consistent with existing case law, to restrict public comment at a regular meeting or special meeting if the public comment: (1) is a topic that is not relevant to or within the authority of the board of trustees; or (2) is willfully disruptive of the meeting by being slanderous or offensive.

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

Section 1. NRS 386.330 is hereby amended to read as follows:
386.330 1. The board of trustees shall hold a regular meeting at least once each month, at such time and place as the board shall determine.

2. Special meetings of the board of trustees shall be held at the call of the president whenever there is sufficient business to come before the board, or upon the written request of three members of the board.

3. The clerk of the board of trustees shall give written notice of each special meeting to each member of the board of trustees by personal delivery of the notice of the special meeting to each trustee at least 1 day before the meeting, or by mailing the notice to each trustee's residence of record, by deposit in the United States mails, postage prepaid, at least 4 days before the meeting. The notice shall specify the time, place and purpose of the meeting. If all of the members of the board of trustees are present at a special meeting, the lack of notice shall not invalidate the proceedings of the board of trustees.

4. A majority of the members of the board of trustees shall constitute a quorum for the transaction of business, and no action of



the board of trustees shall be valid unless such action shall receive, at a regularly called meeting, the approval of a majority of all the members of the board of trustees.

5. In any county whose population is 55,000 or more, the board of trustees may cause each meeting of the board to be broadcast on a television station created to provide community access to cable television by using the facilities of the school district, county or any city located in the county. The board of trustees and the county or city shall cooperate fully with each other to determine:

(a) The feasibility of televising the meetings of the board of trustees;

(b) The costs to televise the meetings of the board of trustees for each proposed method of televising; and

(c) The number of potential viewers of the meetings of the board of trustees for each proposed method of televising.

6. Except in an emergency that impacts the school district, the board of trustees shall not take any action or corrective action at a regular meeting or special meeting on an item that has been posted on its agenda pursuant to chapter 241 of NRS after 11:59 p.m. on the day of the meeting. If the board of trustees has not taken action or corrective action, as applicable, on any item that is on its agenda before 11:59 p.m. on the day of the meeting, the board of trustees must not take any further action or corrective action on any item that is on the meeting agenda unless the board of trustees:

(a) Schedules the delayed agenda item at a future meeting by placing the item on its agenda for the future meeting pursuant to chapter 241 of NRS; or

(b) Waits until at least 24 hours after the originally scheduled time of the meeting but not later than 3 business days after the originally scheduled date of the meeting to take action or corrective action.

7. The board of trustees may restrict public comment at a regular meeting or special meeting if the public comment:

(a) Is a topic that is not relevant to or within the authority of the board of trustees; or

(b) Is willfully disruptive of the meeting by being slanderous or offensive.

8. As used in this section, "emergency" has the meaning ascribed to it in NRS 241.020.

Sec. 2. This act becomes effective on July 1, 2023.

