
ASSEMBLY BILL NO. 199—ASSEMBLYMEN MATTHEWS, BLACK,
DICKMAN, WHEELER; ELLISON, HAFEN, HANSEN, KASAMA
AND MCARTHUR

MARCH 4, 2021

JOINT SPONSORS: SENATORS BUCK AND HANSEN

Referred to Committee on Government Affairs

SUMMARY—Provides for the designation and operation of charter agencies. (BDR 18-804)

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 State Government; authorizing the Governor to designate any department within the Executive Department of State Government as a charter agency; providing that all employees of a department designated as a charter agency become employees in the unclassified service of the State; requiring the Governor and the director of a charter agency to enter into annual performance agreements; requiring the removal of the director of a charter agency under certain circumstances; authorizing the payment of bonuses to the director and employees of a charter agency; providing a limitation on annual appropriations to a charter agency; authorizing a charter agency to retain for its use certain unobligated balances remaining at the end of a fiscal year; exempting a charter agency from certain provisions governing state buildings, state purchasing and public works; authorizing a charter agency to propose a waiver or suspension of an administrative rule or regulation, subject to approval or disapproval by the Legislative Commission; requiring certain reporting concerning a charter agency to the Legislature or Legislative Commission; revising certain provisions related to collective bargaining for state employees of a charter agency; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

1 Existing law creates within the Executive Department of State Government
2 various departments including the Department of Indigent Defense Services,
3 Department of Corrections, Department of Tourism and Cultural Affairs, State
4 Department of Conservation and Natural Resources, the Department of
5 Administration, the Department of Health and Human Services, the Department of
6 Business and Industry, the Department of Employment, Training and
7 Rehabilitation, the Department of Taxation, the Department of Education, the
8 Department of Transportation, the Department of Public Safety, the Department of
9 Motor Vehicles, the Department of Wildlife and the State Department of
10 Agriculture. (NRS 180.410, 209.101, 231.167, 232.020, 232.213, 232.300, 232.510,
11 232.910, 360.120, 385.010, 408.106, 480.100, 481.019, 501.331, 561.035)

12 **Section 2** of this bill: (1) authorizes the Governor to designate any department
13 within the Executive Department of State Government as a charter agency; (2)
14 requires the Governor and the director of a charter agency to enter into an annual
15 performance agreement which sets forth measurable organizational and individual
16 goals for the director in key operational areas of the charter agency; (3) requires the
17 Governor to remove the director of a charter agency for misconduct relating to the
18 operation of the charter agency or failure to achieve the performance goals set forth
19 in the performance agreement; and (4) authorizes the payment of annual bonuses to
20 the director and employees of a charter agency based on performance.

21 **Section 3** of this bill provides a limitation on annual appropriations to a charter
22 agency and authorizes a charter agency to retain for its use certain unobligated
23 balances remaining at the end of each fiscal year.

24 **Section 4** of this bill exempts a charter agency from provisions governing state
25 buildings, state purchasing and public works.

26 **Section 5** of this bill authorizes a charter agency to propose a waiver or
27 suspension of an administrative rule or regulation and provides that no such waiver
28 or suspension may become effective unless approved by the Legislative
29 Commission.

30 **Section 6** of this bill requires: (1) a charter agency to report annually to the
31 Legislature or the Legislative Commission concerning the expenditures and actions
32 of the charter agency; and (2) the Governor to report to the 84th Session of the
33 Nevada Legislature concerning the operation and effectiveness of this bill.

34 Existing law provides that the classified service of the State is comprised of
35 certain positions in the public service which are filled according to merit and fitness
36 from eligible lists prepared upon the basis of examination. A classified employee
37 must not be appointed, transferred, promoted, demoted or discharged in any manner
38 or by any means except in accordance with certain statutes and regulations. (NRS
39 284.150) Existing law further authorizes collective bargaining for classified
40 employees of the State. (NRS 288.400-288.630)

41 **Sections 2 and 7** of this bill provide that all employees of a department
42 designated as a charter agency become employees in the unclassified service of the
43 State, effective on the date that the designation of the department as a charter
44 agency becomes effective. **Section 2** provides that the designation of a department
45 as a charter agency must not become effective until the July 1 immediately
46 following the expiration of any collective bargaining agreements that apply to the
47 classified employees of the department. **Section 8** of this bill makes a conforming
48 change to clarify that any person employed by a department designated as a charter
49 agency is not an employee for purposes of collective bargaining for state
50 employees.

51 Existing law provides that the term of a collective bargaining agreement that
52 applies to state employees must begin on July 1 of an odd-numbered year and end
53 on June 30 of the next odd-numbered year, but if the parties cannot agree to a new
54 collective bargaining agreement before the end of the term of the agreement, the



55 existing collective bargaining agreement remains in effect until a new agreement
56 takes effect. (NRS 288.550) **Section 9** of this bill provides an exception to the
57 continuation of a collective bargaining agreement past its expiration to the extent
58 that the collective bargaining agreement applies to an employee of a department
59 that is designated as a charter agency. A collective bargaining agreement does not
60 apply to any employee of a charter agency after the date on which the term of the
61 collective bargaining agreement ends.

62 **Section 11** of this bill provides for the prospective expiration of this bill on
63 June 30, 2027.

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

1 **Section 1.** Chapter 232 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2. 1.** *The Governor, by executive order, may designate*
5 *any department established by law within the Executive*
6 *Department of the State Government as a charter agency. Such a*
7 *designation must become effective on July 1 of an odd-numbered*
8 *year. If a collective bargaining agreement applies to any employee*
9 *of the department, the designation must not become effective until*
10 *the July 1 immediately following the expiration of the collective*
11 *bargaining agreement pursuant to NRS 288.550.*

12 **2.** *Upon the effective date of the designation of a department*
13 *as a charter agency, all employees of the department become*
14 *employees in the unclassified service of the State.*

15 **3.** *Before the date on which the designation becomes*
16 *effective, and before the beginning of each subsequent fiscal year,*
17 *the Governor and the director of the designated charter agency*
18 *shall enter into a performance agreement which must set forth*
19 *measurable organizational and individual goals for the director in*
20 *key operational areas of the charter agency. The period of the*
21 *performance agreement must be the next following fiscal year.*

22 **4.** *The charter agency shall:*

23 **(a)** *On or before July 1 of each fiscal year, provide a copy of*
24 *the performance agreement to the Director of the Legislative*
25 *Counsel Bureau for transmittal to the Legislative Commission;*
26 *and*

27 **(b)** *Make a copy of the performance agreement available on an*
28 *Internet website maintained by the charter agency during the*
29 *period of the performance agreement.*

30 **5.** *The Governor shall remove the director of the charter*
31 *agency for:*

32 **(a)** *Misconduct relating to the operation of the charter agency;*
33 *or*



1 (b) Failure to achieve the performance goals set forth in a
2 performance agreement.

3 6. Notwithstanding any provision of law to the contrary:

4 (a) The Governor may authorize the payment of an annual
5 bonus to the director of the charter agency in an amount of not
6 more than 50 percent of the annual salary of the director, based
7 upon the Governor's evaluation of the performance of the director
8 in relation to the goals set forth in the performance agreement;
9 and

10 (b) The director of the charter agency may authorize the
11 payment of an annual bonus to any employee of the charter
12 agency in a total amount of not more than 50 percent of the
13 annual salary of the employee, based upon the director's
14 evaluation of the performance of the employee.

15 **Sec. 3. 1. Appropriations from the State General Fund for**
16 **the operation of a department that is designated as a charter**
17 **agency for any fiscal year must not exceed 80 percent of such**
18 **appropriations for the fiscal year immediately preceding the**
19 **effective date of the designation. Any such appropriation that is**
20 **inconsistent with the provisions of this subsection is void to the**
21 **extent of the inconsistency.**

22 2. Notwithstanding any provision of law to the contrary, 50
23 percent of all remaining balances of appropriations made for the
24 operation of a department that is designated as a charter agency
25 for each fiscal year that are not obligated for expenditure on or
26 before June 30 of that fiscal year:

27 (a) Must not revert to the State General Fund; and

28 (b) Must be retained by the charter agency and may be used
29 for any purpose within the scope of the responsibilities of the
30 charter agency.

31 **Sec. 4. Notwithstanding any provision of law to the contrary,**
32 **the provisions of chapters 331, 333, 333A, 334, 336 and 338 of**
33 **NRS do not apply to a charter agency or any action taken by a**
34 **charter agency.**

35 **Sec. 5. 1. A charter agency may, in accordance with the**
36 **provisions of this section, propose the waiver or suspension with**
37 **regard to the charter agency of the provisions of any**
38 **administrative rule or regulation adopted in this State if the**
39 **charter agency determines that:**

40 (a) Strict compliance with the administrative rule or regulation
41 will negatively affect the ability of the charter agency to perform
42 its duties in a more cost-efficient manner;

43 (b) The application of the administrative rule or regulation
44 poses an undue financial hardship on the charter agency;



1 (c) *The waiver or suspension of the administrative rule or*
2 *regulation will not prejudice the substantial legal rights of any*
3 *person;*

4 (d) *If the administrative rule or regulation provides protection*
5 *of the public health, safety or welfare, substantially similar*
6 *protection of the public health, safety or welfare will be provided*
7 *by a means other than that prescribed in the administrative rule or*
8 *regulation; and*

9 (e) *The waiver or suspension will not result in a violation of*
10 *due process, any statute of this State or any federal law, the*
11 *Nevada Constitution or the United States Constitution.*

12 2. *The charter agency shall draft the waiver or suspension in*
13 *such a manner as to provide the narrowest exception possible to*
14 *the provisions of the administrative rule or regulation and may*
15 *place any condition on the waiver or suspension that the charter*
16 *agency determines necessary to protect the public health, safety*
17 *and welfare. The charter agency shall submit the proposed waiver*
18 *or suspension to the Director of the Legislative Counsel Bureau*
19 *for transmittal to the Legislative Commission for consideration at*
20 *its next scheduled meeting.*

21 3. *No proposed waiver or suspension of an administrative*
22 *rule or regulation may become effective unless the waiver or*
23 *suspension is approved by the Legislative Commission. The*
24 *Legislative Commission may approve a proposed waiver or*
25 *suspension of an administrative rule or regulation if the*
26 *Legislative Commission:*

27 (a) *Makes the determinations set forth in subsection 1; and*

28 (b) *Determines that the suspension or waiver will not result in*
29 *an adverse financial effect on this State.*

30 4. *The Legislative Commission shall provide written notice to*
31 *the charter agency of its approval or disapproval of the proposed*
32 *waiver or suspension, and the reasons therefor.*

33 5. *The charter agency shall post a copy of the written notice*
34 *on an Internet website maintained by the charter agency.*

35 6. *A waiver or suspension approved pursuant to this section*
36 *must be for a period not to exceed 12 months or until June 30,*
37 *2027, whichever occurs first. The renewal of a waiver or*
38 *suspension must be approved in the same manner as the initial*
39 *waiver or suspension.*

40 **Sec. 6.** 1. *Each charter agency shall, on or before*
41 *December 31 of each year, submit a written report which*
42 *summarizes the activities of the charter agency for the*
43 *immediately preceding fiscal year to the Director of the Legislative*
44 *Counsel Bureau for transmittal to the Legislature, if the*



1 *Legislature is in session, or the Legislative Commission, if the*
2 *Legislature is not in session. The report must include information:*

3 *(a) Explaining the reforms, measures and processes that were*
4 *implemented and resulted in a reduction in the costs incurred by*
5 *the charter agency while maintaining the appropriate level of*
6 *service quality;*

7 *(b) Concerning the expenditures of the charter agency and the*
8 *number of persons employed by the charter agency during the*
9 *immediately preceding fiscal year; and*

10 *(c) Relating to the actions taken by the charter agency*
11 *pursuant to the provisions of sections 2 to 6, inclusive, of this act.*

12 *2. On or before February 1, 2027, the Governor shall submit*
13 *a written report to the Director of the Legislative Counsel Bureau*
14 *for transmittal to the Legislature on the operation and*
15 *effectiveness of sections 2 to 6, inclusive, of this act and the costs*
16 *and savings associated with the implementation of those sections.*
17 *The report must include any recommendations concerning*
18 *extending the prospective expiration of the provisions of sections 2*
19 *to 6, inclusive, of this act beyond June 30, 2027.*

20 **Sec. 7.** NRS 284.140 is hereby amended to read as follows:

21 284.140 The unclassified service of the State consists of the
22 following state officers or employees in the Executive Department
23 of the State Government who receive annual salaries for their
24 services:

25 1. Members of boards and commissions, and heads of
26 departments, agencies and institutions required by law to be
27 appointed.

28 2. Except as otherwise provided in NRS 223.085, 223.600 and
29 232.461 all persons required by law to be appointed by the
30 Governor or heads of departments or agencies appointed by the
31 Governor or by boards.

32 3. All employees other than clerical in the Office of the
33 Attorney General and the State Public Defender required by law to
34 be appointed by the Attorney General or the State Public Defender.

35 4. Except as otherwise provided by the Board of Regents of the
36 University of Nevada pursuant to NRS 396.251, officers and
37 members of the teaching staff and the staffs of the Agricultural
38 Extension Department and Experiment Station of the Nevada
39 System of Higher Education, or any other state institution of
40 learning, and student employees of these institutions. Custodial,
41 clerical or maintenance employees of these institutions are in the
42 classified service. The Board of Regents of the University of
43 Nevada shall assist the Administrator in carrying out the provisions
44 of this chapter applicable to the Nevada System of Higher
45 Education.



1 5. *All employees of a department designated as a charter*
2 *agency pursuant to section 2 of this act.*

3 6. All other officers and employees authorized by law to be
4 employed in the unclassified service.

5 **Sec. 8.** NRS 288.425 is hereby amended to read as follows:

6 288.425 1. "Employee" means a person who:

7 (a) Is employed in the classified service of the State pursuant to
8 chapter 284 of NRS; or

9 (b) Is employed by the Nevada System of Higher Education in
10 the classified service of the State or is required to be paid in
11 accordance with the pay plan for the classified service of the State.

12 2. The term does not include:

13 (a) A managerial employee whose primary function, as
14 determined by the Board, is to administer and control the business
15 of any agency, board, bureau, commission, department, division,
16 elected officer or any other unit of the Executive Department and
17 who is vested with discretion and independent judgment with regard
18 to the general conduct and control of that agency, board, bureau,
19 commission, department, division, elected officer or unit;

20 (b) An elected official or any person appointed to fill a vacancy
21 in an elected office;

22 (c) A confidential employee;

23 (d) A temporary employee who is employed for a fixed period
24 of 4 months or less;

25 (e) A commissioned officer or an enlisted member of the
26 Nevada National Guard;

27 (f) Any person employed by the Nevada System of Higher
28 Education who is not in the classified service of the State or
29 required to be paid in accordance with the pay plan of the classified
30 service of the State; ~~{or}~~

31 (g) Any person employed by the Public Employees' Retirement
32 System who is required to be paid in accordance with the pay plan
33 of the classified service of the State ~~{;}~~ *or*

34

(h) Any person employed by a department designated as a

35 *charter agency pursuant to section 2 of this act.*

36 **Sec. 9.** NRS 288.550 is hereby amended to read as follows:

37 288.550 1. Except as otherwise provided in ~~{this section,}~~
38 *subsection 2*, the term of a collective bargaining agreement must
39 begin on July 1 of an odd-numbered year and must end on June 30
40 of the next odd-numbered year. ~~{H}~~

41 2. *Except as otherwise provided in subsection 3, if* the parties
42 cannot agree to a new collective bargaining agreement before the
43 end of the term of a collective bargaining agreement, the terms of
44 that collective bargaining agreement remain in effect until a new
45 collective bargaining agreement takes effect.



1 **3.** *The provisions of subsection 2 do not apply to any*
2 *collective bargaining agreement to the extent that the agreement*
3 *applies to an employee of a department designated as a charter*
4 *agency pursuant to section 2 of this act. A collective bargaining*
5 *agreement does not apply to any employee of a charter agency*
6 *after the date on which the term of the collective bargaining*
7 *agreement ends pursuant to subsection 1.*

8 **Sec. 10.** The provisions of subsection 1 of NRS 218D.380 do
9 not apply to any provision of this act which adds or revises a
10 requirement to submit a report to the Legislature.

11 **Sec. 11.** This act becomes effective upon passage and
12 approval, and expires by limitation on June 30, 2027.

