

**PROPOSED REGULATION OF THE DIRECTOR OF THE  
DEPARTMENT OF BUSINESS AND INDUSTRY**

**LCB File No. R099-13**

**PROPOSED ADOPTION AND AMENDMENTS TO THE  
REGULATIONS OF CHARTER SCHOOLS**

**October 3, 2013**

**Explanation:** Material in *bold italics* is new material; material lined out within ~~bold brackets~~ is material to be omitted.

**Purpose:** To adopt regulations under chapter 386 of the Nevada Administrative Code, as amended by S.B. 384 (2013), relating to the “Charter School Finance Law” which permitted the issuing of bonds, notes and other obligations to finance the acquisition, construction, improvement, restoration or rehabilitation of charter schools by establishing the amount of certain fees; providing for certain definitions and policies; and providing other matters properly relating thereto.

**General Authority:** S.B. 384 (2013), section 8.1, 8.7 and 9.7.

**Agency Address:**

Department of Business and Industry

**Agency Contact Persons:**

**ASH MIRCHANDANI**

Deputy Director

Nevada State Department of Business & Industry

555 E. Washington Avenue Suite 4900

Las Vegas, NV 89101

702-486-4492

**Deputy Attorney General Providing Assistance to the Agency:**

Daniel Ebihara, Deputy Attorney General

debihara@ag.nv.gov

Telephone: (702) 486-3326

Facsimile: (702) 486-3416

555 N. Washington Street, Las Vegas, Nevada 89101-1068

**Sec. 1.** Chapter 386 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 36, inclusive, of this regulation.

**Sec. 2. Requests for clarification, relief or information. (S.B. 384)** Any person who wishes:

1. A clarification of the application of the provisions of the charter school bond process;
2. Relief from the strict application of any provision of the charter school bond process;

or

3. Information concerning the procedures for submitting requests to the Director or the Special Committee,

-- may address a written request therefore as follows:

**Attn: Director**

**Department of Business and Industry**

**555 East Washington Avenue, Suite 4900**

**Las Vegas, Nevada 89101-1075**

**Sec. 2. Definitions.** The following definitions shall apply to Sections 2 through 22 of S.B. 384 and related sections of this chapter, unless another definition is otherwise indicated:

1. “Director” defined. “Director” or “Director of the Department of Business and Industry” means the Director of the Department of Business and Industry or any person within the Department of Business and Industry designated by the Director to perform duties in connection with a project or the issuance of bonds pursuant to sections 2 to 22, inclusive, of S.B. 384.

2. “Authorizer” defined. “Authorizer” means the entity sponsoring the applicant charter school under the provisions of NRS 386.515.

**Sec. 3.** *An application for bond financing pursuant to NRS Chapter 386 must be accompanied by a nonrefundable application fee of no less than \$2,500 unless otherwise modified or waived by the Director.*

**Sec. 4.** *An application for bond financing pursuant to NRS Chapter 386 must provide the Director, the following:*

*1. An application for bond financing must be in writing and filed with the Director on a form provided for that purpose.*

*2. The application must state:*

*(a) The name of the applicant and the name under which the applicant does business or expects to do business.*

*(b) The address of the applicant's business and residence, including street and number.*

*(c) The purpose for which the bond proceeds will be used.*

*(d) The location(s) by street and number of the project being financed with the bond proceeds.*

*(e) In the case of a corporation or voluntary association, the name and residential address of each of the directors and officers and the name and residential address of the manager.*

*(f) The number of students who attend the applicant charter school;*

*(g) List all local, state, and federal requirements which must be completed in order to complete the project for which the bond proceeds are to be used and state the status of the approval process for each regulatory requirement.*

*(h) The expected maturity date and expected amount of the bonds;*

*(i) Any other information reasonably related to the applicant's qualifications for the bond financing which the Director determines to be necessary.*

*(j) All information required to complete the application.*

**Sec. 5.** *(SB 384, section 8.7) The applicant must provide to the Director any bond credit ratings the school, lessee, purchaser or other obligor that will make or guarantee the payment of the principle, premium, if any, and interest on the bond to be issued has obtained within the 12 months previous to submitting the application.*

**Sec. 6.** *The applicant must provide verification from the Authorizer (NRS 386.515) that the school is not in default with its current written charter or charter contract and documentation establishing review of any new lease or building arrangement the charter contract requires for the project which is the subject of the bond financing.*

**Sec. 7. 1.** *Bonds issued pursuant to this chapter, inclusive, whether tax-exempt or taxable may be sold in the public bond market or privately placed.*

**2.** *Variable-rate bonds issued pursuant to this chapter, must:*

*(a) Use hedging or interest rate protection mechanisms to maintain the interest rate of the bonds within an acceptable range, as determined by the Director, for so long as the bonds are outstanding; and*

*(b) Have the cost of any hedging or interest rate protection mechanisms fully accounted for when calculating the cost of the bonds for comparison with alternative bond structures;*

**3.** *The proposed costs of bond issuance must be preapproved by the Director before any preliminary official statement or marketing materials are released; and*

**4.** *The project must conform with all applicable federal and state laws and regulations including any applicable environmental and energy efficiency laws and regulations.*

**Sec. 8.** *Following initial approval of the applicant, Director and applicant will enter into a standard agreement describing the responsibilities of the parties and the fee structure of the Department.*

**Sec. 9. 1.** *If the Director approves the bond financing, the Director will submit findings and conclusions to the State Board of Finance for approval.*

**2.** *If the State Board of Finance approves the bond financing, the Director may adopt a financing resolution setting forth the final terms of the Bonds.*

**3.** *The Director may require the applicant to submit disclosures and be subject to audit as the Director deems appropriate.*

**Sec. 10.** *The Director shall require the obligee to pay in advance the estimated costs of the processing and implementation of the bond application and finance agreement in such an amounts and at such times as the Director determines.*

**Sec. 11.** *All investments of bond proceeds must comply with Chapter 386 of the NRS and be approved by the Director.*