

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

LCB File No. R099-13

October 18, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets ~~(omitted material)~~ is material to be omitted.

AUTHORITY: §§1-4 and 11, NRS 386.649; §§5 and 6, NRS 386.633 and 386.649; §7, NRS 386.628 and 386.649; §§8-10, NRS 386.634 and 386.649.

A REGULATION relating to charter schools; establishing a procedure for requesting the issuance of bonds by the Director of the Department of Business and Industry to finance a project for the benefit of a charter school; requiring that such a project comply with applicable state and federal statutes and regulations; specifying certain mandatory and optional terms to be included in a financing agreement between the Director and an obligor; imposing certain requirements governing the sale of bonds, the investment of the proceeds of bonds and bonds which provide for a variable rate of interest; and providing other matters properly relating thereto.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 11, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Bond financing” means the financing of a project through the issuance of bonds pursuant to NRS 386.612 to 386.649, inclusive.*

Sec. 4. *“Charter school” means the charter school for whose benefit a project is being financed.*

Sec. 5. *A request by an obligor for bond financing pursuant to NRS 386.630 and 386.632 must be made by the submission of a written application to the Director, on a form prescribed*

by the Director. In addition to any other information required by NRS 386.612 to 386.649, inclusive, the application must include or be accompanied by:

- 1. The name of the obligor and any other name under which the obligor does business or expects to do business;*
- 2. The business and residential addresses of the obligor, as applicable, including the street name and number of each address;*
- 3. If the obligor is a corporation, association or other entity described in NRS 386.621, other than a governmental entity, the name and residential address of each director, officer, partner and manager of the obligor, as applicable;*
- 4. Information relating to each bond credit rating received by the obligor within the 12 months immediately preceding the date of the application;*
- 5. A description of the project;*
- 6. The address of the project, including the street name and number of that address;*
- 7. The number of pupils attending the charter school;*
- 8. A statement by the sponsor of the charter school that the charter school is not in default under its current written charter or charter contract;*
- 9. If the written charter or charter contract of the charter school requires a review of the project by the sponsor of the charter school, documentary evidence that the review has been completed;*
- 10. A statement of all local, state and federal requirements which must be complied with to complete the project and the status of any process of approval applicable to each such requirement;*
- 11. The expected date of maturity and the amount of the bonds; and*

12. Any other information which the Director determines is necessary in a particular case and which is reasonably related to the obligor's qualifications for the bond financing.

Sec. 6. To qualify for bond financing, a project must comply with all applicable state and federal statutes and regulations, including, without limitation, statutes and regulations relating to environmental protection and energy efficiency.

Sec. 7. If a request for bond financing is approved by the Director:

1. The obligor shall enter into a written financing agreement with the Director, contingent upon action by the State Board of Finance pursuant to NRS 386.632 and 386.633, setting forth the respective rights and duties of the Director and the obligor.

2. In addition to the provisions required by NRS 386.619, the financing agreement:

(a) Must set forth any fees of the Department of Business and Industry applicable to the bond financing.

(b) May require the obligor to disclose such records and information and be subject to such audit requirements as the Director deems appropriate.

(c) Must require the obligor to pay in advance the estimated costs of processing and implementing the request for bond financing and the financing agreement, in such amounts and at such times as determined by the Director.

3. The Director will submit his or her findings to the State Board of Finance for approval pursuant to NRS 386.632 and 386.633.

Sec. 8. If the State Board of Finance approves a request for bond financing, the Director may adopt a resolution setting forth the final terms of the bonds.

Sec. 9. The proposed costs of issuing the bonds must be approved by the Director before any preliminary official statement or marketing materials are released.

Sec. 10. 1. Bonds may be sold in the public bond market or privately placed.

2. While they remain outstanding, any bonds providing for a variable rate of interest must use hedging or another mechanism to maintain the interest rate of the bonds within a range determined by the Director. The cost of any such protections must be accounted for in calculating the cost of such bonds in comparison to the cost of bonds not providing for a variable rate of interest.

3. Any investment of the proceeds of bonds must first be approved by the Director and must comply with the requirements of chapter 386 of NRS.

Sec. 11. Any person who wishes to obtain:

1. Clarification of any provision of sections 2 to 11, inclusive, of this regulation;

2. Relief from the strict application of any such provision; or

3. Additional information about the procedure for submitting an application pursuant to section 5 of this regulation,

↪ may mail a written request addressed to the attention of the Director at the Department of Business and Industry, 555 East Washington Avenue, Suite 4900, Las Vegas, Nevada 89101-1075.