

Amendment No. 674

Senate Amendment to Assembly Bill No. 423 First Reprint	(BDR 34-847)
Proposed by: Senator Donate	
Amendment Box: Replaces Amendment No. 562.	
Consistent with Amendment No. 560.	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

SLD/HAC



Date: 5/19/2023

A.B. No. 423—Revises provisions governing meetings of a board of trustees of a school district. (BDR 34-847)



ASSEMBLY BILL NO. 423—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 27, 2023

Referred to Committee on Education

SUMMARY—Revises provisions governing ~~meetings of a board~~ **boards** of trustees of ~~a~~ school ~~district.~~ **districts.** (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; **prohibiting a board of trustees of a school district from adopting certain policies**; 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; **providing an administrative penalty**; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides each board of trustees of a school district, with certain exceptions, with such reasonable and necessary powers as required to promote the welfare of school children. (NRS 386.350) Section 1 of this bill prohibits a board of trustees from adopting a policy that limits the access of a pupil to school facilities or activities because of race, religious creed, color, national origin, disability, sexual orientation, gender identity or expression, ancestry, familial status or sex. Section 1 further authorizes the Department of Education to impose an administrative penalty against a board of trustees that adopts such a policy.

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 1.5~~ **1.5** 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 1.5~~ **1.5** 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

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

29 The United States Constitution and the Nevada Constitution protect the freedom of
 30 speech but a public body may, under certain circumstances, limit speech at a public meeting.
 31 (U.S. Const. Amend. I; Nev. Const. Art. 1, § 9; *Minnesota State Bd. for Community Colleges*
 32 *v. Knight*, 465 U.S. 271, 281-85 (1984); *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th
 33 Cir. 1990)) Under existing case law, a public body may: (1) impose reasonable time, place and
 34 manner restrictions that are viewpoint neutral and maintain decorum and order; and (2) limit
 35 public comment that is not relevant to or within the authority of the public body. (*Norwalk* at
 36 1425; *Reza v. Pearce*, 806 F.3d 497, 503-04 (9th Cir. 2015); *see also* OMLO 2001-22 (12-17-
 37 2002); *Nevada Open Meeting Law Manual*, § 8.05 (11th ed. 2012)) However, existing case
 38 law prohibits a public body from restricting public comment that is slanderous or offensive
 39 unless such public comment causes an actual disturbance at the meeting. (*Acosta v. City of*
 40 *Costa Mesa*, 718 F.3d 800, 813 (9th Cir. 2013)) Consistent with existing case law, the Open
 41 Meeting Law authorizes the removal from a meeting of a public body any person who
 42 willfully disrupts a meeting to the extent that its orderly conduct is made impractical. (NRS
 43 241.030) Section ~~44~~ **1.5** authorizes a board of trustees of a school district, consistent with
 44 existing case law, to restrict public comment at a regular meeting or special meeting if the
 45 public comment: (1) is a topic that is not relevant to or within the authority of the board of
 46 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:

1 **Section 1. Chapter 386 of NRS is hereby amended by adding thereto a**
 2 **new section to read as follows:**

3 **1. A board of trustees shall not adopt a policy that limits the access of a**
 4 **pupil because of race, religious creed, color, national origin, disability, sexual**
 5 **orientation, gender identity or expression, ancestry, familial status or sex, to**
 6 **school facilities or activities.**

7 **2. If the Department finds that a board of trustees adopts a policy that**
 8 **violates the provisions of subsection 1, the Department may impose an**
 9 **administrative penalty of not more than \$5,000 for each day that the policy is in**
 10 **effect.**

11 ~~[Section 1.]~~ **Sec. 1.5.** NRS 386.330 is hereby amended to read as follows:

12 386.330 1. The board of trustees shall hold a regular meeting at least once
 13 each month, at such time and place as the board shall determine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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