

**First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 09-0739.01 Brita Darling

**SENATE BILL 09-176**

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**SENATE SPONSORSHIP**

**Spence,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**  
Education

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING CHARTER SCHOOL PARTICIPATION IN SCHOOL DISTRICT**  
102 **BOND ELECTIONS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Specifies the date by which a school district (district) shall invite each charter school of the district to participate in discussions concerning participation by the charter school in an upcoming district bond election.

Removes the requirement that a district board of education review a charter school's capital construction plan to determine the need for capital construction, the viability of the capital construction plan, and the need to obtain revenues through bonded indebtedness or from a special

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

mill levy.

Removes the requirement that a district board of education consult with the charter school with respect to the amount of, and repayment schedule for, the bonds proposed to be sold to finance the charter school's capital construction.

Clarifies that a district board of education may submit a question to eligible electors of a district concerning contracting bonded indebtedness for the land and facilities needs of a charter school of the district and charter school capital construction.

Requires that a district include a charter school's capital construction needs in a bond election unless the district and the charter school agree otherwise.

Removes the requirement that the charter school enter into a contract with the district specifying that the ownership of any construction financed through bonded indebtedness automatically revert to the district if the charter school loses its charter, fails to pay for the capital construction, or no longer operates as a charter school.

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*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 22-30.5-403 (4), Colorado Revised Statutes, is amended to read:

**22-30.5-403. Definitions.** As used in this part 4, unless the context otherwise requires:

(4) "Charter school capital construction" or "capital construction" means constructing, demolishing, remodeling, financing, or refinancing the acquisition of land, buildings, or facilities used for occupancy by pupils enrolled in or to be enrolled in a charter school. The term also includes actions taken to achieve the purposes set forth in section ~~22-42-102 (2) (a) (I) to (2) (a) (V)~~ 22-42-102 (2) (a) (I) TO (2) (a) (V), (2) (a) (VII), AND (2) (a) (VIII).

**SECTION 2.** 22-30.5-404 (1), (4), (5), and (6), Colorado Revised Statutes, are amended, and the said 22-30.5-404 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**22-30.5-404. Needs-based inclusion of charter schools in**

1 **district bond elections - eligibility - allocation of bond revenues.**

2 (1) (a) In enacting this section, it is the intent of the general assembly to  
3 respect the principle of school district local control and to encourage  
4 school districts and charter schools to work together to ensure that the  
5 capital construction needs of charter schools can be met. Accordingly,  
6 nothing in this section shall be construed to limit in any way the existing  
7 ability of any school district to include a charter school in any local bond  
8 elections or to otherwise assist a charter school in financing its capital  
9 construction needs in any legal manner mutually agreed upon by the  
10 school district and the charter school.

11 (b) Each school district that is considering submitting any  
12 question of contracting bonded indebtedness to the eligible electors of the  
13 district at an upcoming election shall invite each charter school chartered  
14 by the district to participate in discussions regarding the possible  
15 submission of such a question at the earliest possible time BUT NO LATER  
16 THAN JUNE 1 OF THE APPLICABLE ELECTION YEAR, and each school district  
17 is encouraged to voluntarily include funding for the capital construction  
18 needs of charter schools in the district's questions of contracting bonded  
19 indebtedness without requiring a charter school to comply with the capital  
20 construction plan submission process set forth in subsection (3) of this  
21 section.

22 (4) (a) The board of education of a school district shall review a  
23 capital construction plan submitted by a charter school pursuant to  
24 subsection (3) of this section and determine ~~whether the charter school~~  
25 ~~has established a need for the capital construction, a need to incur bonded~~  
26 ~~indebtedness or obtain revenues from a special mill levy to finance the~~  
27 ~~capital construction, and a viable plan for the capital construction. The~~

1 ~~board shall also determine~~ the priority of the charter school capital  
2 construction need in relation to the capital construction needs of the entire  
3 district. ~~If the board determines that~~ THE BOARD OF EDUCATION SHALL  
4 NOTIFY THE CHARTER SCHOOL IN WRITING WHETHER THE SCHOOL DISTRICT  
5 HAS PRIORITIZED THE CHARTER SCHOOL'S CAPITAL CONSTRUCTION NEEDS  
6 NO LATER THAN THE EARLIER OF:

7 (I) SIXTY DAYS AFTER A CHARTER SCHOOL SUBMITS A PLAN  
8 PURSUANT TO SUBSECTION (3) OF THIS SECTION; OR

9 (II) SIXTY DAYS PRIOR TO THE DATE BY WHICH THE SCHOOL  
10 DISTRICT IS REQUIRED TO FINALIZE THE BALLOT QUESTION.

11 ~~(a) (b) The charter school has established capital construction~~  
12 ~~needs, a need to incur bonded indebtedness or obtain revenues from a~~  
13 ~~special mill levy to finance the capital construction, and a viable plan, and~~  
14 IF the board has prioritized the charter school capital construction needs  
15 ~~in relation to the capital construction needs of the entire district~~  
16 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), the board shall  
17 ~~either~~ include the charter school's capital construction in a ballot question  
18 for approval of bonded indebtedness in accordance with subsection (5) of  
19 this section. ~~or submit a separate special mill levy question to the voters~~  
20 ~~of the district pursuant to section 22-30.5-405. The board shall have the~~  
21 ~~discretion to choose between the bond or special mill levy options and to~~  
22 ~~determine the amount of bonds that will be needed to be sold or the~~  
23 ~~amount of moneys that will be needed to be raised by a special mill levy,~~  
24 ~~but the board shall first consider any information provided or preferences~~  
25 ~~expressed by the charter school.~~

26 (b) ~~The charter school has not established capital construction~~  
27 ~~needs, a need to incur bonded indebtedness or obtain revenues from a~~

1 special mill levy to finance the capital construction, or a viable plan:

2 ~~(I) The board shall provide the charter school with a written~~  
3 ~~statement specifying its reasons for concluding that the charter school has~~  
4 ~~not established capital construction needs, a need to incur bonded~~  
5 ~~indebtedness or obtain revenues from a special mill levy to finance the~~  
6 ~~capital construction, or a viable plan; and~~

7 ~~(H) (c) If the board need not include the charter school's capital~~  
8 ~~construction in the district's ballot question for approval of bonded~~  
9 ~~indebtedness but shall submit a special mill levy ballot question to the~~  
10 ~~voters of the district pursuant to section 22-30.5-405 if the charter school~~  
11 ~~requests that a special mill levy be submitted and the charter school~~  
12 ~~agrees to pay all of the costs of submitting the special mill levy ballot~~  
13 ~~question~~ HAS NOT PRIORITIZED THE CHARTER SCHOOL'S CAPITAL  
14 CONSTRUCTION NEEDS, THE BOARD SHALL PROVIDE THE CHARTER SCHOOL  
15 WITH A WRITTEN STATEMENT SPECIFYING THE REASONS FOR EXCLUDING  
16 THE NEEDS AND THE CHARTER SCHOOL SHALL HAVE AN OPPORTUNITY TO  
17 ADDRESS ANY ISSUES RAISED BY THE BOARD. UNLESS THE BOARD AND  
18 THE CHARTER SCHOOL HAVE AGREED OTHERWISE, THE BOARD SHALL  
19 INCLUDE THE CHARTER SCHOOL'S CAPITAL CONSTRUCTION NEEDS IN THE  
20 BALLOT QUESTION FOR APPROVAL OF BONDED INDEBTEDNESS.

21 ~~(5) If the board of a school~~ WHEN A district chooses to include  
22 INCLUDES a charter school's capital construction in a district ballot  
23 question seeking approval of bonded indebtedness:

24 ~~(a) The board shall consult with the charter school in determining~~  
25 ~~the amount of, and repayment schedule for, the bonds proposed to be sold~~  
26 ~~to finance the charter school's capital construction;~~

27 (b) The board and the charter school shall agree to the

1 ~~prioritization of the distribution of bond proceeds between the charter~~  
2 ~~school and any other public school that will receive bond proceeds before~~  
3 ~~PROCESS BY WHICH THE BOND PROCEEDS SHALL BE DISTRIBUTED TO THE~~  
4 ~~CHARTER SCHOOL PRIOR TO submitting the ballot question to the voters of~~  
5 ~~the school district;~~

6 (c) The investment and interest earnings on bond proceeds shall  
7 be distributed on a pro rata basis to the participating charter school after  
8 management fees have been collected; and

9 (d) The costs of submitting the ballot question shall be borne by  
10 both the district and the charter school in proportion to their respective  
11 portions of the total bond proceeds to be received unless the board and the  
12 charter school agree to a different cost-sharing arrangement. ~~Except as~~  
13 ~~otherwise provided in paragraph (b) of subsection (4) of this section, if~~  
14 ~~the board of the district submits a separate special mill levy ballot~~  
15 ~~question on the same ballot as a ballot question for approval of bonded~~  
16 ~~indebtedness, the costs of submitting the special mill levy ballot question~~  
17 ~~shall be borne as agreed upon by the school district and the charter~~  
18 ~~school.~~

19 (5.5) IF A CHARTER SCHOOL REQUESTS THAT A SCHOOL DISTRICT  
20 SUBMIT A BALLOT QUESTION FOR APPROVAL OF A SPECIAL MILL LEVY TO  
21 THE VOTERS OF THE DISTRICT PURSUANT TO SECTION 22-30.5-405, THE  
22 CHARTER SCHOOL SHALL AGREE TO PAY ALL COSTS OF SUBMITTING THE  
23 BALLOT QUESTION. NOTWITHSTANDING THIS REQUIREMENT, IF THE BOARD  
24 OF THE DISTRICT SUBMITS A SEPARATE SPECIAL MILL LEVY BALLOT  
25 QUESTION ON THE SAME BALLOT AS A BALLOT QUESTION FOR APPROVAL  
26 OF BONDED INDEBTEDNESS, THE COSTS OF SUBMITTING THE SPECIAL MILL  
27 LEVY BALLOT QUESTION SHALL BE BORNE AS AGREED UPON BY THE

1 SCHOOL DISTRICT AND THE CHARTER SCHOOL.

2 (6) Notwithstanding any other provision of this section, no bonds  
3 shall be issued for the purpose of financing charter school capital  
4 construction unless the charter school that is to receive bond proceeds and  
5 the district have entered into a contract specifying that:

6 (a) ~~The ownership of any capital construction financed by bond~~  
7 ~~revenues shall automatically revert to the district if the charter school~~  
8 ~~loses its charter, fails to pay for the capital construction to be financed by~~  
9 ~~bond revenues, or becomes insolvent and can no longer operate as a~~  
10 ~~charter school; and~~

11 (b) The charter school shall not encumber any capital construction  
12 financed by bond revenues with any additional debt.

13 **SECTION 3.** 22-42-102 (2) (a) (VI) and (2) (a) (VII), Colorado  
14 Revised Statutes, are amended, and the said 22-42-102 (2) (a) is further  
15 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

16 **22-42-102. Bonded indebtedness - elections.** (2) (a) The board  
17 of education of any school district, at any regular biennial school election  
18 or at a special election called for the purpose, shall submit to the eligible  
19 electors of the district the question of contracting a bonded indebtedness  
20 for one or more of the following purposes:

21 (VI) For funding floating indebtedness; ~~or~~

22 (VII) For acquiring, constructing, or improving any capital asset  
23 that the district is authorized by law to own; OR

24 (VIII) FOR SUPPORTING CHARTER SCHOOL CAPITAL CONSTRUCTION  
25 AS DEFINED IN SECTION 22-30.5-403 (4) OR THE LAND AND FACILITIES  
26 NEEDS OF A CHARTER SCHOOL AS DEFINED IN SECTION 22-30.5-403 (3),  
27 WITHOUT TITLE OR OWNERSHIP OF CHARTER SCHOOL CAPITAL ASSETS

1 BEING HELD BY THE SCHOOL DISTRICT AND WITHOUT REVERSIONARY  
2 INTERESTS TO THE SCHOOL DISTRICT OR OWNERSHIP OR USE RESTRICTIONS  
3 PLACED ON THE CHARTER SCHOOL BY THE SCHOOL DISTRICT.

4 **SECTION 4. Act subject to petition - effective date.** This act  
5 shall take effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly that is  
7 allowed for submitting a referendum petition pursuant to article V,  
8 section 1 (3) of the state constitution, (August 4, 2009, if adjournment  
9 sine die is on May 6, 2009); except that, if a referendum petition is filed  
10 against this act or an item, section, or part of this act within such period,  
11 then the act, item, section, or part, if approved by the people, shall take  
12 effect on the date of the official declaration of the vote thereon by  
13 proclamation of the governor.