

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0536.01 Julie Pelegrin

SENATE BILL 10-161

SENATE SPONSORSHIP

King K.,

HOUSE SPONSORSHIP

Massey,

Senate Committees
Education

House Committees
Education
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZING CHARTER SCHOOLS TO ENTER INTO**
102 **CONTRACTUAL AGREEMENTS, AND MAKING AN APPROPRIATION**
103 **THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill authorizes a charter school to contract with a board of cooperative services or another charter school for buildings and services. The bill authorizes a board of cooperative services to contract with a district charter school or an institute charter school to provide services

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.*

SENATE
3rd Reading Unamended
April 27, 2010

SENATE
Amended 2nd Reading
April 26, 2010

and buildings.

The bill authorizes charter schools to form charter school collaboratives to perform any function appropriately performed by a charter school, including applying for state or federal grants. If the charter school collaborative was formed with the consent of the authorizers of the member charter schools, the collaborative may serve as a local education agency or administrative unit.

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

2 **SECTION 1.** 22-30.5-104 (7) (b), Colorado Revised Statutes, is
3 amended to read:

4 **22-30.5-104. Charter school - requirements - authority.**
5 (7) (b) A charter school may negotiate and contract with a school district,
6 the governing body of a state college or university, the state of Colorado,
7 a school food authority, A BOARD OF COOPERATIVE SERVICES, ANOTHER
8 DISTRICT CHARTER SCHOOL, AN INSTITUTE CHARTER SCHOOL, or any third
9 party for the use of a school building and grounds, the operation and
10 maintenance thereof, and the provision of any service, activity, or
11 undertaking that the charter school is required or chooses to perform in
12 order to carry out the educational program described in its charter
13 contract. Any services for which a charter school contracts with a school
14 district shall be provided by the district at cost. The charter school shall
15 have standing to sue and be sued in its own name for the enforcement of
16 any contract created pursuant to this paragraph (b).

17 **SECTION 2.** 22-30.5-507 (8) (b), Colorado Revised Statutes, is
18 amended to read:

19 **22-30.5-507. Institute charter school - requirements -**
20 **authority.** (8) (b) An institute charter school may negotiate and contract
21 with a school district, the governing body of a state college or university,
22 a school food authority, A BOARD OF COOPERATIVE SERVICES, ANOTHER

1 INSTITUTE CHARTER SCHOOL, A DISTRICT CHARTER SCHOOL, or any third
2 party for the use of a school building and grounds, the operation and
3 maintenance thereof, and the provision of any service, activity, or
4 undertaking that the institute charter school is required to perform in
5 order to carry out the educational program described in its charter
6 contract. The institute charter school shall have standing to sue and be
7 sued in its own name for the enforcement of any contract created pursuant
8 to this paragraph (b).

9 **SECTION 3.** 22-5-103, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
11 read:

12 **22-5-103. Definitions.** As used in this article, unless the context
13 otherwise requires:

14 (2.3) "DISTRICT CHARTER SCHOOL" MEANS A CHARTER SCHOOL
15 AUTHORIZED BY A SCHOOL DISTRICT BOARD OF EDUCATION PURSUANT TO
16 PART 1 OF ARTICLE 30.5 OF THIS TITLE.

17 (2.7) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL
18 AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
19 PART 5 OF ARTICLE 30.5 OF THIS TITLE.

20 **SECTION 4.** 22-5-108 (1), Colorado Revised Statutes, is
21 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22 **22-5-108. Powers of board of cooperative services.** (1) In
23 addition to any other powers granted by law, the board of cooperative
24 services shall have the following specific powers, to be exercised in its
25 judgment:

26 (i) TO CONTRACT WITH A DISTRICT CHARTER SCHOOL OR AN
27 INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-104 (7) (b)

1 OR 22-30.5-507 (8) (b), RESPECTIVELY, FOR THE USE OF A SCHOOL
2 BUILDING AND GROUNDS, THE OPERATION AND MAINTENANCE OF THE
3 BUILDING AND GROUNDS, AND THE PROVISION OF ANY SERVICE, ACTIVITY,
4 OR UNDERTAKING THAT THE DISTRICT CHARTER SCHOOL OR INSTITUTE
5 CHARTER SCHOOL IS REQUIRED TO PERFORM TO CARRY OUT THE
6 EDUCATIONAL PROGRAM DESCRIBED IN ITS CHARTER CONTRACT.

7 **SECTION 5.** 22-30.5-503, Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW SUBSECTION to read:

9 **22-30.5-503. State charter school institute - establishment.**

10 (3.5) (a) THE STATE CHARTER SCHOOL INSTITUTE MAY ACT AS THE LOCAL
11 EDUCATION AGENCY AND FISCAL AGENT FOR A DISTRICT CHARTER SCHOOL
12 OR AN INSTITUTE CHARTER SCHOOL THAT CHOOSES TO APPLY FOR A GRANT
13 THROUGH A NONFORMULAIC, COMPETITIVE GRANT PROGRAM CREATED BY
14 FEDERAL STATUTE; EXCEPT THAT THE PROVISIONS OF THIS SUBSECTION
15 (3.5) SHALL NOT APPLY TO AN APPLICATION FOR:

16 (I) A GRANT PROGRAM CREATED IN THE FEDERAL "INDIVIDUAL
17 WITH DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS
18 AMENDED, OR IN ITS IMPLEMENTING REGULATIONS; OR

19 (II) A GRANT PROGRAM CREATED IN THE FEDERAL "ELEMENTARY
20 AND SECONDARY EDUCATION ACT OF 1965", 20 U.S.C. SEC. 6301 ET SEQ.,
21 AS AMENDED, OR IN ITS IMPLEMENTING REGULATIONS.

22 (b) IN ACTING AS A LOCAL EDUCATION AGENCY AND FISCAL AGENT
23 PURSUANT TO THIS SUBSECTION (3.5), THE INSTITUTE SHALL TREAT
24 DISTRICT CHARTER SCHOOLS AND INSTITUTE CHARTER SCHOOLS EQUALLY.

25 (c) THE INSTITUTE BOARD, BY RULE, MAY ESTABLISH A FEE THAT
26 A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL SHALL
27 PAY IF IT REQUESTS THE THAT INSTITUTE ACT AS THE LOCAL EDUCATION

1 AGENCY AND FISCAL AGENT FOR THE CHARTER SCHOOL PURSUANT TO THIS
2 SUBSECTION (3.5). THE AMOUNT OF THE FEE SHALL NOT EXCEED THE
3 DIRECT COSTS INCURRED BY THE INSTITUTE IN IMPLEMENTING THE
4 PROVISIONS OF THIS SUBSECTION (3.5). ANY AMOUNT RECEIVED BY THE
5 INSTITUTE FROM FEES PAID PURSUANT TO THIS SUBSECTION (3.5) IS
6 CONTINUOUSLY APPROPRIATED TO THE INSTITUTE FOR THE COSTS
7 INCURRED IN IMPLEMENTING THIS SUBSECTION (3.5). THE INSTITUTE
8 BOARD SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT THE
9 PROVISIONS OF THIS SUBSECTION (3.5).

10 **SECTION 6.** 22-30.5-104, Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW SUBSECTION to read:

12 **22-30.5-104. Charter school - requirements - authority.**

13 (11) IF A CHARTER SCHOOL CHOOSES TO APPLY FOR A GRANT THROUGH A
14 NONFORMULAIC, COMPETITIVE GRANT PROGRAM CREATED BY FEDERAL
15 STATUTE, THE CHARTER SCHOOL, PURSUANT TO THE PROVISIONS OF
16 SECTION 22-30.5-503 (3.5), MAY REQUEST THAT THE STATE CHARTER
17 SCHOOL INSTITUTE ACT AS A LOCAL EDUCATION AGENCY AND FISCAL
18 AGENT FOR THE CHARTER SCHOOL FOR PURPOSES OF THE GRANT. THE
19 CHARTER SCHOOL SHALL PAY THE FEE, IF ANY, IMPOSED BY THE STATE
20 CHARTER SCHOOL INSTITUTE BOARD AS PROVIDED IN SECTION 22-30.5-503
21 (3.5).

22 **SECTION 7.** Article 30.5 of title 22, Colorado Revised Statutes,
23 is amended BY THE ADDITION OF A NEW PART to read:

24 PART 6

25 CHARTER SCHOOL COLLABORATIVES

26 **22-30.5-601. Short title.** THIS PART 6 SHALL BE KNOWN AND MAY
27 BE CITED AS THE "CHARTER SCHOOL COLLABORATIVE ACT".

1 **22-30.5-602. Definitions.** AS USED IN THIS PART 6, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:

3 ==
4 (1) "AUTHORIZER" MEANS A SCHOOL DISTRICT BOARD OF
5 EDUCATION THAT AUTHORIZES A DISTRICT CHARTER SCHOOL PURSUANT
6 TO PART 1 OF THIS ARTICLE OR THE STATE CHARTER SCHOOL INSTITUTE
7 BOARD CREATED IN SECTION 22-30.5-505.

8 (2) "CHARTER SCHOOL" MEANS A DISTRICT CHARTER SCHOOL
9 AUTHORIZED PURSUANT TO PART 1 OF THIS ARTICLE OR AN INSTITUTE
10 CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 5 OF THIS ARTICLE.

11 ██████████ ██████████

12 **22-30.5-603. Charter school collaborative - creation - public**
13 **status - structure.** (1) ██████████ TWO OR MORE CHARTER SCHOOLS MAY
14 CONTRACT WITH ONE ANOTHER TO FORM A CHARTER SCHOOL
15 COLLABORATIVE THAT IS A LEGAL ENTITY SEPARATE FROM THE
16 CONTRACTING CHARTER SCHOOLS AND IS AUTHORIZED TO PROVIDE ANY
17 FUNCTION, SERVICE, OR FACILITY THAT IS LAWFULLY AUTHORIZED FOR
18 EACH OF THE CONTRACTING CHARTER SCHOOLS. A CHARTER SCHOOL
19 NEED NOT OBTAIN THE APPROVAL OF ITS AUTHORIZER TO CREATE OR
20 PARTICIPATE IN A CHARTER SCHOOL COLLABORATIVE. ██████████ ██████████

21 (2) A CHARTER SCHOOL COLLABORATIVE CREATED PURSUANT TO
22 THIS SECTION SHALL BE A PUBLIC ENTITY THAT EXISTS SEPARATELY FROM
23 THE INDIVIDUAL CHARTER SCHOOLS THAT ARE PARTICIPATING IN THE
24 COLLABORATIVE. THE CHARTER SCHOOL COLLABORATIVE SHALL HOLD
25 AND MAY EXERCISE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS,
26 LIABILITIES, AND DISABILITIES OF A PUBLIC ENTITY, INCLUDING BUT NOT
27 LIMITED TO THE POWER TO CONTRACT, TO SUE OR BE SUED, AND TO HOLD

1 TITLE TO PROPERTY; EXCEPT THAT A CHARTER SCHOOL COLLABORATIVE
2 MAY HOLD TITLE TO REAL PROPERTY ONLY FOR THE USE OF THE
3 PARTICIPATING CHARTER SCHOOLS. THE CHARTER SCHOOL
4 COLLABORATIVE SHALL BE SOLELY RESPONSIBLE FOR ITS DEBTS,
5 LIABILITIES, AND OBLIGATIONS, AND SAID DEBTS, LIABILITIES, OR
6 OBLIGATIONS SHALL NOT BE THE RESPONSIBILITY OF THE PARTICIPATING
7 CHARTER SCHOOLS OR THEIR AUTHORIZERS.

8 (3) A CHARTER SCHOOL COLLABORATIVE CREATED PURSUANT TO
9 THIS SECTION SHALL BE DEEMED A LOCAL PUBLIC BODY FOR PURPOSES OF
10 THE OPEN MEETING REQUIREMENTS OF SECTION 24-6-402, C.R.S. EXCEPT
11 AS OTHERWISE SPECIFICALLY AUTHORIZED IN THIS SECTION, A CHARTER
12 SCHOOL COLLABORATIVE SHALL BE SUBJECT TO ALL STATE STATUTES
13 REGULATING CHARTER SCHOOLS AS PUBLIC ENTITIES AS IF THE CHARTER
14 SCHOOL COLLABORATIVE WERE AUTHORIZED BY A SCHOOL DISTRICT
15 BOARD OF EDUCATION.

16 (4) (a) A CHARTER SCHOOL COLLABORATIVE, AS A SEPARATE
17 LEGAL ENTITY, SHALL EXERCISE ADMINISTRATIVE CONTROL OR DIRECTION
18 IN PROVIDING OR OPERATING SPECIFIED FUNCTIONS, SERVICES, OR
19 FACILITIES FOR THE PARTICIPATING CHARTER SCHOOLS. THE CONTRACT
20 CREATING A CHARTER SCHOOL COLLABORATIVE SHALL SET FORTH FULLY
21 THE PURPOSES, POWERS, RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES,
22 FINANCIAL AND OTHERWISE, OF THE CHARTER SCHOOL COLLABORATIVE
23 AND OF THE CONTRACTING CHARTER SCHOOLS. THE PARTICIPATING
24 CHARTER SCHOOLS SHALL DELEGATE TO THE CHARTER SCHOOL
25 COLLABORATIVE THE POWERS NECESSARY TO ENABLE THE CHARTER
26 SCHOOL COLLABORATIVE TO PROVIDE OR OPERATE THE FUNCTIONS,
27 SERVICES, OR FACILITIES SPECIFIED IN THE CONTRACT.

1 (b) IN ADDITION TO ANY DUTY REQUIRED TO BE PERFORMED BY
2 LAW OR BY THE CONTRACT CREATING A CHARTER SCHOOL
3 COLLABORATIVE, THE COLLABORATIVE SHALL HAVE AND PERFORM THE
4 FOLLOWING DUTIES:

5 (I) TO ACT CONSISTENTLY WITH THE PROVISIONS OF THIS ARTICLE;

6 (II) TO ABIDE BY THE CONTRACT THAT CREATES AND ORGANIZES
7 THE CHARTER SCHOOL COLLABORATIVE; AND

8 (III) TO ACT CONSISTENTLY WITH THE CHARTER CONTRACT AND
9 MISSION OF EACH CHARTER SCHOOL THAT PARTICIPATES IN THE CHARTER
10 SCHOOL COLLABORATIVE.

11 (5) A CONTRACT TO ESTABLISH A CHARTER SCHOOL
12 COLLABORATIVE SHALL, AT A MINIMUM, SPECIFY:

13 (a) THE NAME AND PURPOSE OF THE CHARTER SCHOOL
14 COLLABORATIVE AND THE FUNCTIONS, SERVICES, OR FACILITIES THAT THE
15 CHARTER SCHOOL COLLABORATIVE SHALL PROVIDE OR OPERATE;

16 (b) THE ESTABLISHMENT AND ORGANIZATION OF A BOARD OF
17 DIRECTORS OF THE CHARTER SCHOOL COLLABORATIVE, INCLUDING BUT
18 NOT LIMITED TO:

19 (I) THE NUMBER OF DIRECTORS, THE MANNER OF APPOINTMENT,
20 THE TERMS OF OFFICE, THE AMOUNT OF COMPENSATION, IF ANY, AND THE
21 PROCEDURES FOR FILLING VACANCIES;

22 (II) THE OFFICERS OF THE CHARTER SCHOOL COLLABORATIVE, THE
23 MANNER OF THEIR SELECTION, AND THEIR DUTIES;

24 (III) THE VOTING REQUIREMENTS FOR ACTION BY THE BOARD OF
25 DIRECTORS; EXCEPT THAT, UNLESS SPECIFICALLY PROVIDED OTHERWISE IN
26 THE CONTRACT, A MAJORITY OF DIRECTORS SHALL CONSTITUTE A QUORUM
27 AND A MAJORITY OF A QUORUM SHALL BE NECESSARY TO AUTHORIZE ANY

1 ACTION TAKEN BY THE BOARD OF DIRECTORS;

2 (c) PROVISIONS FOR THE DISPOSITION, DIVISION, OR DISTRIBUTION
3 OF ANY PROPERTY OR ASSETS OF THE CHARTER SCHOOL COLLABORATIVE,
4 INCLUDING BUT NOT LIMITED TO DISTRIBUTION UPON DISSOLUTION OF THE
5 CHARTER COLLABORATIVE OF THE EQUITY IN ANY REAL PROPERTY THAT
6 THE CHARTER SCHOOL COLLABORATIVE MAY HOLD;

7 (d) THE TERM OF THE CONTRACT, WHICH MAY BE CONTINUED FOR
8 A DEFINITE TERM OR UNTIL RESCINDED OR TERMINATED, AND THE
9 METHOD, IF ANY, BY WHICH IT MAY BE RESCINDED OR TERMINATED;
10 EXCEPT THAT THE CONTRACT MAY NOT BE RESCINDED OR TERMINATED SO
11 LONG AS THE CHARTER SCHOOL COLLABORATIVE HAS OBLIGATIONS
12 OUTSTANDING, UNLESS PROVISIONS FOR FULL PAYMENT OF THE
13 OBLIGATIONS, BY ESCROW OR OTHERWISE, ARE MADE PURSUANT TO THE
14 TERMS OF THE OBLIGATIONS; AND

15 (e) THE TERMS, IF ANY, UNDER WHICH A CHARTER SCHOOL THAT
16 IS NOT INITIALLY A PARTICIPANT IN THE CHARTER SCHOOL
17 COLLABORATIVE MAY JOIN THE COLLABORATIVE AND UNDER WHICH A
18 CHARTER SCHOOL PARTICIPANT MAY WITHDRAW FROM THE CHARTER
19 SCHOOL COLLABORATIVE. ___

20 **22-30.5-604. Charter school collaborative - nonexclusive.**

21 NOTHING IN THIS PART 6 SHALL PROHIBIT A CHARTER SCHOOL FROM
22 PARTICIPATING AS A MEMBER IN AN ORGANIZATION FORMED FOR THE
23 PURPOSE OF MUTUAL SUPPORT, CONTRACTING FOR SERVICES,
24 PARTICIPATING IN INTERGOVERNMENTAL AGREEMENTS OTHERWISE
25 AUTHORIZED BY LAW, OR PARTICIPATING IN ANY OTHER FORM OF
26 ORGANIZATION AUTHORIZED BY LAW AND APPROPRIATE TO COLORADO
27 PUBLIC OR NONPROFIT ORGANIZATIONS.

1 **22-30.5-605. Administration fee.** THE STATE BOARD OF
2 EDUCATION, BY RULE, MAY ESTABLISH A FEE TO BE PAID BY EACH
3 CHARTER SCHOOL COLLABORATIVE TO OFFSET ANY DIRECT COSTS THAT
4 THE DEPARTMENT OF EDUCATION MAY INCUR IN COLLECTING DATA FROM
5 OR REGULATING THE CHARTER SCHOOL COLLABORATIVE. THE AMOUNT OF
6 THE FEE SHALL NOT EXCEED THE AMOUNT OF SAID DIRECT COSTS. ANY
7 AMOUNT IN FEES RECEIVED BY THE DEPARTMENT OF EDUCATION
8 PURSUANT TO THIS SECTION IS CONTINUOUSLY APPROPRIATED TO THE
9 DEPARTMENT FOR SAID DIRECT COSTS.

10 **SECTION 8. Appropriation - adjustments to the 2010 long**
11 **bill.** For the implementation of this act, appropriations made in the
12 general appropriation act for the fiscal year beginning July 1, 2010, shall
13 be adjusted as follows: The appropriation to the department of education,
14 for allocation to the Institute, for the purposes of acting as a local
15 education agency and fiscal agent for charter school collaboratives, is
16 increased by 1.0 FTE. This 1.0 FTE shall be supported by fees collected
17 pursuant to section 22-30.5-503 (3.5) (c), Colorado Revised Statutes.
18 Moneys received by the Institute for this purpose are continuously
19 appropriated to the Institute for costs incurred pursuant to section 22-
20 30.5-503 (3.5), Colorado Revised Statutes.

21 **SECTION 9. Act subject to petition - effective date.** This act
22 shall take effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part shall not take effect

1 unless approved by the people at the general election to be held in
2 November 2010 and shall take effect on the date of the official
3 declaration of the vote thereon by the governor.