

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

PREAMENDED

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

LLS NO. 11-0506.01 Julie Pelegrin

HOUSE BILL 11-1055

HOUSE SPONSORSHIP

Beezley,

SENATE SPONSORSHIP

(None),

House Committees

Education
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING FACILITIES FOR USE BY CHARTER SCHOOLS.**

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 request permission to occupy space in a school district facility or on school district land if the charter school determines the space is suitable and appropriate for its use. The school district must respond to the request within 30 days. If the school district denies the request, the charter school may seek an evaluation from the department of education (department) as to whether the facility space or land is available and appropriate. If the department

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.

finds that it is, the school district must allow the charter school to occupy the facility space or land rent-free.

An institute charter school may request permission to occupy space in a facility or on land owned by a state agency if the institute charter school determines the space is suitable and appropriate for its use. The state agency must respond to the request within 30 days. If the state agency denies the request, the institute charter school may seek an evaluation from the department as to whether the facility space or land is available and appropriate. If the department finds that it is, the state agency must allow the institute charter school to occupy the facility space or land rent-free. An institute charter school operating in a state-owned facility may purchase the facility from the state agency, based on negotiated terms. If the institute charter school later sells the property, it must offer a right of first refusal to the state agency. A state agency is not required to hold unused state facilities for institute charter schools but may choose to sell them or lease them for other purposes.

If a school district sells a facility, it cannot include as part of the sale a term that would prevent the future use of the facility as a school building.

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

2 **SECTION 1.** 22-30.5-104 (7) (c), Colorado Revised Statutes, is
3 amended, and the said 22-30.5-104 (7) is further amended BY THE
4 ADDITION OF A NEW PARAGRAPH, to read:

5 **22-30.5-104. Charter school - requirements - authority.**
6 (7) (b.5) A CHARTER SCHOOL MAY REQUEST PERMISSION FROM A SCHOOL
7 DISTRICT TO USE SPACE IN A SCHOOL DISTRICT FACILITY OWNED BY THE
8 SCHOOL DISTRICT THAT THE CHARTER SCHOOL DETERMINES IS AVAILABLE
9 AND IS SUITABLE AND APPROPRIATE FOR THE CHARTER SCHOOL'S USE. THE
10 SCHOOL DISTRICT SHALL RESPOND TO THE REQUEST WITHIN SIXTY DAYS
11 AFTER RECEIPT. IF THE SCHOOL DISTRICT DENIES THE REQUEST, THE
12 CHARTER SCHOOL MAY REQUEST AN EVALUATION FROM THE DEPARTMENT
13 TO DETERMINE WHETHER THE FACILITY SPACE IS AVAILABLE, IS OF
14 ADEQUATE SIZE AND QUALITY, AND IS APPROPRIATE FOR THE CHARTER

1 SCHOOL'S USE. THE CHARTER SCHOOL SHALL BE RESPONSIBLE TO THE
2 DEPARTMENT FOR THE COST OF THE EVALUATION. IF THE DEPARTMENT
3 FINDS THE FACILITY SPACE [REDACTED] IS AVAILABLE, ADEQUATE, AND
4 APPROPRIATE, THE SCHOOL DISTRICT SHALL ALLOW THE CHARTER SCHOOL
5 TO USE THE FACILITY SPACE. THE DECISION OF THE DEPARTMENT SHALL BE
6 FINAL AND NOT SUBJECT TO APPEAL.

7 (c) In no event shall a charter school be required to pay rent for
8 FACILITY space which [REDACTED] THAT is deemed available, ~~as negotiated by~~
9 ~~contract, in school district facilities~~ AS PROVIDED IN PARAGRAPH (b.5) OF
10 THIS SUBSECTION (7). All other costs for the operation and maintenance
11 of the facilities used by the charter school shall be subject to negotiation
12 between the charter school and the school district.

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

15 **22-30.5-507. Institute charter school - requirements -**
16 **authority.** (8) (a) An institute charter school shall be responsible for its
17 own operation including, but not limited to, preparation of a budget,
18 contracting for services, and personnel matters.

19 (b) An institute charter school may negotiate and contract with a
20 school district, the governing body of a state college or university, a
21 school food authority, a board of cooperative services, another institute
22 charter school, a district charter school, AN AGENCY OF THE STATE, or any
23 third party for the use of a school building and grounds, the operation and
24 maintenance thereof, and the provision of any service, activity, or
25 undertaking that the institute charter school is required to perform in
26 order to carry out the educational program described in its charter
27 contract. The institute charter school shall have standing to sue and be

1 sued in its own name for the enforcement of any contract created pursuant
2 to this paragraph (b).

3 (c) AN INSTITUTE CHARTER SCHOOL MAY REQUEST PERMISSION
4 FROM A STATE AGENCY TO USE SPACE IN A FACILITY [REDACTED] OWNED BY THE
5 STATE AGENCY THAT THE INSTITUTE CHARTER SCHOOL DETERMINES IS
6 AVAILABLE AND IS SUITABLE AND APPROPRIATE FOR THE INSTITUTE
7 CHARTER SCHOOL'S USE. THE STATE AGENCY SHALL RESPOND TO THE
8 REQUEST WITHIN SIXTY DAYS AFTER RECEIPT. IF THE STATE AGENCY
9 DENIES THE REQUEST, THE INSTITUTE CHARTER SCHOOL MAY REQUEST AN
10 EVALUATION FROM THE DEPARTMENT TO DETERMINE WHETHER THE
11 FACILITY SPACE [REDACTED] IS AVAILABLE, IS OF ADEQUATE SIZE AND QUALITY,
12 AND IS APPROPRIATE FOR THE INSTITUTE CHARTER SCHOOL'S USE. THE
13 INSTITUTE CHARTER SCHOOL SHALL BE RESPONSIBLE TO THE DEPARTMENT
14 FOR THE COST OF THE EVALUATION. IF THE DEPARTMENT FINDS THE
15 FACILITY SPACE IS AVAILABLE, ADEQUATE, AND APPROPRIATE, THE STATE
16 AGENCY SHALL ALLOW THE INSTITUTE CHARTER SCHOOL TO USE THE
17 FACILITY SPACE. THE DECISION OF THE DEPARTMENT SHALL BE FINAL AND
18 NOT SUBJECT TO APPEAL.

19 (d) IN NO EVENT SHALL AN INSTITUTE CHARTER SCHOOL BE
20 REQUIRED TO PAY RENT FOR FACILITY SPACE [REDACTED] THAT IS DEEMED
21 AVAILABLE PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (8). ALL
22 OTHER COSTS FOR THE OPERATION AND MAINTENANCE OF THE FACILITIES
23 USED BY THE INSTITUTE CHARTER SCHOOL SHALL BE SUBJECT TO
24 NEGOTIATION BETWEEN THE CHARTER SCHOOL AND THE STATE AGENCY.

25 (e) PURSUANT TO SECTION 24-30-1303 (1), C.R.S., THE
26 DEPARTMENT OF PERSONNEL SHALL BE RESPONSIBLE FOR NEGOTIATING
27 AND EXECUTING ANY LEASE FOR THE USE OF A STATE-OWNED FACILITY BY

1 AN INSTITUTE CHARTER SCHOOL PURSUANT TO THIS SUBSECTION (8).

2 (f) AN INSTITUTE CHARTER SCHOOL THAT IS OPERATING IN A
3 STATE-OWNED FACILITY MAY PURCHASE THE FACILITY AND THE GROUNDS
4 UPON WHICH THE FACILITY IS LOCATED FROM THE STATE AGENCY, AT THE
5 STATE AGENCY'S DISCRETION, ACCORDING TO TERMS ESTABLISHED BY
6 MUTUAL AGREEMENT OF THE PARTIES. IF AN INSTITUTE CHARTER SCHOOL
7 THAT HAS PURCHASED A FACILITY AND GROUNDS PURSUANT TO THIS
8 PARAGRAPH (f) VACATES THE FACILITY AND GROUNDS OR ELECTS TO SELL
9 THE FACILITY AND GROUNDS, THE STATE AGENCY THAT SOLD THE FACILITY
10 AND GROUNDS TO THE INSTITUTE CHARTER SCHOOL PURSUANT TO THIS
11 PARAGRAPH (f) SHALL HAVE FIRST RIGHT OF REFUSAL TO REACQUIRE AND
12 PURCHASE THE PROPERTY AT FAIR MARKET VALUE OR IN ACCORDANCE
13 WITH OTHER TERMS OF REPURCHASE ESTABLISHED BY MUTUAL
14 AGREEMENT OF THE PARTIES.

15 (g) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (b), (c),
16 AND (d) OF THIS SUBSECTION (8), ANY STATE AGENCY THAT HAS SPACE IN
17 STATE-OWNED FACILITIES THAT IS UNOCCUPIED SHALL BE ALLOWED TO
18 SELL THE FACILITIES OR USE THE FACILITIES FOR A DIFFERENT PURPOSE
19 AND SHALL NOT BE REQUIRED TO MAINTAIN OWNERSHIP OF THE FACILITIES
20 FOR POTENTIAL USE BY AN INSTITUTE CHARTER SCHOOL.

21 (h) AS USED IN THIS SUBSECTION (8), "STATE AGENCY" INCLUDES
22 A STATE INSTITUTION OF HIGHER EDUCATION.

23 **SECTION 3.** 22-32-110 (1) (e), Colorado Revised Statutes, is
24 amended to read:

25 **22-32-110. Board of education - specific powers.** (1) In
26 addition to any other power granted to a board of education of a school
27 district by law, each board of education of a school district shall have the

1 following specific powers, to be exercised in its judgment:

2 (e) To sell and convey district property which may not be needed
3 within the foreseeable future for any purpose authorized by law, upon
4 such terms and conditions as it may approve; and to lease any such
5 property, pending sale thereof, under an agreement of lease, with or
6 without an option to purchase the same. No finding that the property may
7 not be needed within the foreseeable future shall be necessary if the
8 property is sold and conveyed to a state agency or political subdivision of
9 this state or if the board anticipates that the district will become the tenant
10 of the property under a lease, with or without an option to purchase.

11 NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (e) TO THE
12 CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (e)
13 AS AMENDED, A BOARD OF EDUCATION SHALL NOT INCLUDE IN THE SALE
14 OF A SCHOOL DISTRICT FACILITY ANY TERMS THAT WOULD PREVENT THE
15 USE OF THE FACILITY AS A SCHOOL BUILDING AT ANY TIME AFTER THE
16 SALE.

17 **SECTION 4. Act subject to petition - effective date.** This act
18 shall take effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part shall not take effect
24 unless approved by the people at the general election to be held in
25 November 2012 and shall take effect on the date of the official
26 declaration of the vote thereon by the governor.