

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

May 3, 2012
Date

Committee on Education.

After consideration on the merits, the Committee recommends the following:

SB12-179 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, 22-32-124, **amend**
4 (2) (a) (I) (A) and (2) (a) (II) as follows:
5 **22-32-124. Building codes - zoning - planning - fees - rules -**
6 **definitions.** (2) (a) (I) (A) This subsection (2) shall apply to building or
7 structure construction. Except as specified in subparagraph (II) of this
8 paragraph (a), the division shall conduct the necessary plan reviews, issue
9 building permits, cause the necessary inspections to be performed,
10 perform final inspections, and issue certificates of occupancy to assure
11 that a building or structure constructed pursuant to subsection (1) or (1.5)
12 of this section has been constructed in conformity with the building and
13 fire codes adopted by the director of the division and that the school
14 district or charter school, whichever is appropriate, has complied with the
15 provisions of paragraph (b) of subsection (1) of this section. Pursuant to
16 this sub-subparagraph (A), the division may contract with third-party
17 inspectors that are certified in accordance with section 24-33.5-1213.5,
18 C.R.S., to perform inspections. IN ADDITION, EXCEPT AS OTHERWISE
19 PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE DIVISION
20 SHALL CONTRACT WITH SUCH A CERTIFIED THIRD-PARTY INSPECTOR TO
21 REVIEW AND INSPECT THE STRUCTURAL ENGINEERING OF ANY BUILDING OR
22 STRUCTURE FOR WHICH STRUCTURAL WORK THAT REQUIRES PLANNING BY
23 AN ENGINEER IS BEING DONE AND FOR WHICH FINANCIAL ASSISTANCE, AS

1 DEFINED IN SECTION 22-43.7-103 (10), IS BEING PROVIDED PURSUANT TO
2 THE "BUILDING EXCELLENT SCHOOLS TODAY ACT", ARTICLE 43.7 OF THIS
3 TITLE, AND SHALL NOT ISSUE BUILDING PERMITS FOR SUCH A BUILDING OR
4 STRUCTURE UNLESS THE INSPECTOR CERTIFIES TO THE DIVISION THAT ITS
5 STRUCTURAL ENGINEERING IS SOUND. The affected board of education,
6 state charter school institute, or charter school may hire and compensate
7 third-party inspectors under contract with the division or hire and
8 compensate other third-party inspectors that are certified in accordance
9 with section 24-33.5-1213.5, C.R.S., to perform inspections. If the board
10 of education, state charter school institute, or charter school is unable to
11 obtain a third-party inspector and no building department has been
12 prequalified, the division shall perform the required inspections. If a
13 third-party inspector is used, the division shall require a sufficient number
14 of third-party inspection reports to be submitted by the inspector to the
15 division based upon the scope of the project to ensure quality inspections
16 are performed. Except as specified in sub-subparagraph (B) of this
17 subparagraph (I), the third-party inspector shall attest that inspections are
18 complete and all violations are corrected before the board of education,
19 state charter school institute, or charter school is issued a certificate of
20 occupancy. Inspection records shall be retained by the third-party
21 inspector for two years after the certificate of occupancy is issued. If the
22 division finds that inspections are not completed satisfactorily, as
23 determined by rule of the division, or that all violations are not corrected,
24 the division shall take enforcement action against the appropriate board
25 of education, state charter school institute, or charter school pursuant to
26 section 24-33.5-1213, C.R.S.

27 (II) Pursuant to a memorandum of understanding between the
28 appropriate building department and the division, the division may
29 prequalify an appropriate building department to conduct the necessary
30 plan reviews, issue building permits, conduct inspections, INCLUDING IF
31 APPROPRIATE FOR A GIVEN BUILDING DEPARTMENT THE STRUCTURAL
32 ENGINEERING REVIEW AND INSPECTION REQUIRED BY SUB-SUBPARAGRAPH
33 (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) FOR ANY BUILDING OR
34 STRUCTURE FOR WHICH STRUCTURAL WORK THAT REQUIRES PLANNING BY
35 AN ENGINEER IS BEING DONE AND FOR WHICH FINANCIAL ASSISTANCE, AS
36 DEFINED IN SECTION 22-43.7-103 (10), IS BEING PROVIDED PURSUANT TO
37 THE "BUILDING EXCELLENT SCHOOLS TODAY ACT", ARTICLE 43.7 OF THIS
38 TITLE, issue certificates of occupancy, and issue temporary certificates of
39 occupancy pursuant to sub-subparagraph (B) of subparagraph (I) of this
40 paragraph (a), to ensure that a building or structure constructed pursuant
41 to subsection (1) or (1.5) of this section has been constructed in

1 conformity with the building and fire codes adopted by the director of the
2 division, and take enforcement action. IF AN APPROPRIATE BUILDING
3 DEPARTMENT IS PREQUALIFIED TO CONDUCT THE STRUCTURAL
4 ENGINEERING REVIEW AND INSPECTION REQUIRED BY SUB-SUBPARAGRAPH
5 (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) FOR ANY BUILDING OR
6 STRUCTURE FOR WHICH STRUCTURAL WORK THAT REQUIRES PLANNING BY
7 AN ENGINEER IS BEING DONE AND FOR WHICH FINANCIAL ASSISTANCE, AS
8 DEFINED IN SECTION 22-43.7-103 (10), IS BEING PROVIDED PURSUANT TO
9 THE "BUILDING EXCELLENT SCHOOLS TODAY ACT", ARTICLE 43.7 OF THIS
10 TITLE, IT SHALL PERFORM THE REVIEW AND INSPECTION. IF THE
11 APPROPRIATE BUILDING DEPARTMENT IS NOT PREQUALIFIED TO PERFORM
12 THE STRUCTURAL ENGINEERING REVIEW AND INSPECTION, IT SHALL ADVISE
13 THE DIVISION THAT IT WILL NOT BE PERFORMING THE REVIEW AND
14 INSPECTION, AND THE DIVISION SHALL CONTRACT FOR THE REVIEW AND
15 INSPECTION AS SPECIFIED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH
16 (I) OF THIS PARAGRAPH (a). Nothing in the memorandum of understanding
17 shall be construed to allow the building department to take enforcement
18 action other than in relation to the building and fire codes adopted by the
19 division. An appropriate building department shall meet certification
20 requirements established by the division pursuant to section
21 24-33.5-1213.5, C.R.S., prior to prequalification. An affected board of
22 education, state charter school institute, or charter school may, at its own
23 discretion, opt to use a prequalified building department that has entered
24 into a memorandum of understanding with the division as the delegated
25 authority. If a building department conducts an inspection, the building
26 department shall retain the inspection records for two years after the final
27 certificate of occupancy is issued. The fees charged by the building
28 department shall cover actual, reasonable, and necessary costs. For
29 purposes of this section, "appropriate building department" means the
30 building department of a county, town, city, or city and county and
31 includes a building department within a fire department.

32 **SECTION 2.** In Colorado Revised Statutes, 22-43.7-111, **amend**
33 (1) introductory portion, (1) (c), (1) (d) (IV), and (2); and **add** (1) (e) as
34 follows:

35 **22-43.7-111. Reporting requirements - auditing by state**
36 **auditor.** (1) No later than February 15, 2010, and no later than each
37 February 15 thereafter, the board shall present a written report to the
38 education and finance committees of the house of representatives and the
39 senate, or any successor committees, regarding the provision of financial
40 assistance to applicants pursuant to this article. THE BOARD SHALL MAKE
41 THE REPORT AVAILABLE ELECTRONICALLY ON THE WEB SITE OF THE

1 DEPARTMENT AS SOON AS IS FEASIBLE AFTER IT PRESENTS THE REPORT.

2 The report shall include, at a minimum:

3 (c) A summary of any differences between the common physical
4 design elements and characteristics of the highest performing schools in
5 the state and the lowest performing schools in the state as measured by
6 academic productivity measures such as the Colorado student assessment
7 program created in part 4 of article 7 of this title or Colorado ACT
8 results; ~~and~~

9 (d) A list of the financial assistance applications for public school
10 facility capital construction that were denied financial assistance during
11 the prior fiscal year that includes for each project:

12 (IV) A summary of the reasons why the board or the state board
13 denied financial assistance for the project; AND

14 (e) STATEMENTS OF:

15 (I) THE AGGREGATE AMOUNT AND AMOUNT BY SOURCE OF THE
16 MONEYS CREDITED TO THE ASSISTANCE FUND DURING THE PRIOR FISCAL
17 YEAR; AND

18 (II) THE BALANCE OF THE ASSISTANCE FUND AT THE END OF THE
19 PRIOR FISCAL YEAR.

20 (2) No later than February 15, 2014, AND NO LATER THAN EACH
21 FEBRUARY 15 THEREAFTER, the board shall prepare and make available
22 electronically on the web site of the department a report to the taxpayers
23 of the state regarding the provision of financial assistance to applicants
24 pursuant to this article during the five prior fiscal years. The report shall
25 include, at a minimum, the information specified in subsection (1) of this
26 section for each of the five prior fiscal years and an aggregation of any of
27 such information that can feasibly be aggregated for the full five-year
28 period.

29 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-1203,
30 **amend** (1) (p) as follows:

31 **24-33.5-1203. Duties of division.** (1) The division shall perform
32 the following duties:

33 (p) Conduct construction plan reviews and inspect public school
34 and junior college buildings and structures and enforce the codes adopted
35 in accordance with sections 22-32-124 (2) and 23-71-122 (1) (v), C.R.S.,
36 and sections 24-33.5-1213 and 24-33.5-1213.3. THE GENERAL ASSEMBLY
37 ENCOURAGES THE DIVISION, IN PERFORMING THIS DUTY, TO PREQUALIFY
38 APPROPRIATE BUILDING DEPARTMENTS TO CONDUCT CONSTRUCTION PLAN
39 REVIEWS AND INSPECTIONS OF PUBLIC SCHOOL BUILDINGS AND
40 STRUCTURES AS AUTHORIZED BY SECTION 22-32-124 (2) (a) (II), C.R.S.,
41 IN LIEU OF CONDUCTING THE REVIEWS AND INSPECTIONS ITSELF WHENEVER

1 FEASIBLE.

2 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-1213.7,
3 **amend** (1) (a), (1) (b), and (1) (c) as follows:

4 **24-33.5-1213.7. Board of appeals.** (1) (a) There is hereby
5 created in the division a board of appeals, referred to in this section as the
6 "board of appeals". The board of appeals shall consist of ~~seven~~ EIGHT
7 members appointed by the executive director AND, AS AN EX OFFICIO
8 MEMBER WITHOUT VOTING RIGHTS, THE DIRECTOR OF THE DIVISION OF
9 PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE IN THE DEPARTMENT
10 OF EDUCATION.

11 (b) The members of the board of appeals shall be persons who are
12 qualified by experience and training to pass upon matters pertaining to
13 building construction and, IN ADDITION TO THE DIRECTOR OF THE DIVISION
14 OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE IN THE
15 DEPARTMENT OF EDUCATION, shall include one representative nominated
16 by each of the Colorado association of school boards, the Colorado
17 association of school executives, THE COLORADO LEAGUE OF CHARTER
18 SCHOOLS, the Colorado chapter of the international code council, the fire
19 marshal's association of Colorado, the Colorado state fire chiefs'
20 association, the rocky mountain chapter of the council for educational
21 ~~facilities~~ FACILITY planners international, and Colorado counties,
22 incorporated, or from a successor to any of these organizations
23 representing comparable interests.

24 (c) The members of the board of appeals shall serve at the
25 pleasure of the executive director; EXCEPT THAT THE DIRECTOR OF THE
26 DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE IN THE
27 DEPARTMENT OF EDUCATION SHALL SERVE FOR AS LONG AS HE OR SHE
28 REMAINS THE DIRECTOR OF THE DIVISION. For the initial board, the
29 executive director shall appoint one member for a one-year term, two
30 members for two-year terms, and three members for three-year terms.
31 Subsequent appointments shall be for three-year terms; except that an
32 appointment to fill a vacancy on the board shall be for the remainder of
33 the predecessor's term.

34 **SECTION 5. No appropriation.** The general assembly has
35 determined that this act can be implemented within existing
36 appropriations, and therefore no separate appropriation of state moneys
37 is necessary to carry out the purposes of this act.

38 **SECTION 6. Effective date.** This act takes effect July 1, 2012.

39 **SECTION 7. Safety clause.** The general assembly hereby finds,
40 determines, and declares that this act is necessary for the immediate
41 preservation of the public peace, health, and safety."

1 Page 1, strike lines 101 and 102 and substitute:

2 **"CONCERNING MODIFICATION OF THE GOVERNMENTAL OVERSIGHT OF**
3 **THE CONSTRUCTION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION**
4 **PROJECTS THAT RECEIVE FINANCIAL ASSISTANCE UNDER THE**
5 **"BUILDING EXCELLENT SCHOOLS TODAY ACT" THAT DOES NOT**
6 **INCLUDE ANY CHANGES TO THE FUNDING OF THE "BUILDING**
7 **EXCELLENT SCHOOLS TODAY ACT."**

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