

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 12-0252.02 Julie Pelegrin x2700

SENATE BILL 12-067

SENATE SPONSORSHIP

Hudak, Bacon, Johnston, King K., Spence

HOUSE SPONSORSHIP

Holbert,

Senate Committees
Education

House Committees
Education

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS PERTAINING TO THE CORPORATE STATUS**
102 **OF 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 requires each charter school, effective July 1, 2013, to incorporate as a nonprofit corporation.

The bill prohibits a board of education of a school district or the state charter school institute board (authorizer) from approving a charter application submitted by, or entering into a charter contract with, a

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.

HOUSE
2nd Reading Unam ended
March 29, 2012

SENATE
3rd Reading Unam ended
February 16, 2012

SENATE
Am ended 2nd Reading
February 15, 2012

for-profit entity. Beginning September 1, 2012, an authorizer may not renew a charter or charter contract with a for-profit entity.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-30.5-103, **add**
3 **(3.5) as follows:**

4 **22-30.5-103. Definitions.** As used in this part 1, unless the
5 **context otherwise requires:**

6 **(3.5) "EDUCATION MANAGEMENT PROVIDER" MEANS A NONPROFIT,**
7 **NOT-FOR-PROFIT, OR FOR-PROFIT ENTITY THAT CONTRACTS WITH A**
8 **CHARTER SCHOOL TO PROVIDE, MANAGE, OR OVERSEE ALL OR**
9 **SUBSTANTIALLY ALL OF THE EDUCATIONAL SERVICES PROVIDED BY THE**
10 **CHARTER SCHOOL.**

11 **SECTION 2.** In Colorado Revised Statutes, 22-30.5-104, **amend**
12 **(4) as follows:**

13 **22-30.5-104. Charter school - requirements - authority.**

14 (4) **(a)** A charter school shall be administered and governed by a
15 governing body in a manner agreed to by the charter school applicant and
16 the chartering local board of education. ~~A~~ EFFECTIVE JULY 1, 2013, EACH
17 charter school ~~may~~ **THAT WAS INITIALLY CHARTERED ON OR AFTER**
18 **AUGUST 6, 1997,** SHALL organize as a nonprofit corporation pursuant to
19 the "Colorado Nonprofit Corporation Act", articles 121 to 137 of title 7,
20 C.R.S., which shall not affect its status as a public school for any
21 purposes under Colorado law. Notwithstanding organization as a
22 nonprofit corporation, a charter school shall annually complete a
23 governmental audit that complies with the requirements of the department
24 of education.

25 **(b) AN ENTITY THAT HOLDS A CHARTER AUTHORIZED PURSUANT**

1 TO THIS PART 1 MAY CHOOSE TO CONTRACT WITH AN EDUCATION
2 MANAGEMENT PROVIDER, WHICH EDUCATION MANAGEMENT PROVIDER
3 MAY BE A FOR-PROFIT, A NONPROFIT, OR A NOT-FOR-PROFIT ENTITY, SO
4 LONG AS THE CHARTER SCHOOL MAINTAINS A GOVERNING BOARD THAT IS
5 INDEPENDENT OF THE EDUCATION MANAGEMENT PROVIDER.

6 **SECTION 3.** In Colorado Revised Statutes, 22-30.5-105, **amend**
7 (1) as follows:

8 **22-30.5-105. Charter schools - contract contents - regulations.**

9 (1) (a) An approved charter application shall serve as the basis for a
10 contract between a charter school and the chartering local board of
11 education.

12 (b) A LOCAL BOARD OF EDUCATION MAY APPROVE A CHARTER
13 SCHOOL APPLICATION SUBMITTED BY A NONPROFIT ENTITY AND ENTER
14 INTO A CHARTER CONTRACT DIRECTLY WITH THE NONPROFIT ENTITY TO
15 OPERATE A CHARTER SCHOOL. A LOCAL BOARD OF EDUCATION SHALL NOT
16 APPROVE A CHARTER SCHOOL APPLICATION THAT IS SUBMITTED BY A
17 FOR-PROFIT ENTITY OR THAT IDENTIFIES A FOR-PROFIT ENTITY AS ONE OF
18 THE CHARTER APPLICANTS, AND THE LOCAL BOARD OF EDUCATION SHALL
19 NOT ENTER INTO A CHARTER CONTRACT DIRECTLY WITH A FOR-PROFIT
20 ENTITY TO OPERATE A CHARTER SCHOOL.

21 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-110, **add** (6)
22 as follows:

23 **22-30.5-110. Charter schools - term - renewal of charter -**
24 **grounds for nonrenewal or revocation.** (6) NOTWITHSTANDING ANY
25 PROVISION OF THIS SECTION TO THE CONTRARY, ON AND AFTER
26 SEPTEMBER 1, 2012, A LOCAL BOARD OF EDUCATION SHALL NOT RENEW A
27 CHARTER THAT IS HELD BY A FOR-PROFIT ENTITY EITHER SOLELY OR IN

1 COOPERATION WITH OTHER ENTITIES.

2 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-502, **add**
3 **(4.5) as follows:**

4 **22-30.5-502. Definitions.** As used in this part 5, unless the
5 **context otherwise requires:**

6 **(4.5) "EDUCATION MANAGEMENT PROVIDER" MEANS A NONPROFIT,**
7 **NOT-FOR-PROFIT, OR FOR-PROFIT ENTITY THAT CONTRACTS WITH AN**
8 **INSTITUTE CHARTER SCHOOL TO PROVIDE, MANAGE, OR OVERSEE ALL OR**
9 **SUBSTANTIALLY ALL OF THE EDUCATIONAL SERVICES PROVIDED BY THE**
10 **INSTITUTE CHARTER SCHOOL.**

11 **SECTION 6.** In Colorado Revised Statutes, 22-30.5-507, **amend**
12 **(4) as follows:**

13 **22-30.5-507. Institute charter school - requirements -**
14 **authority.** (4) **(a)** An institute charter school shall be administered and
15 governed by a governing body in a manner agreed to and set forth in the
16 charter contract. ~~An~~ EFFECTIVE JULY 1, 2013, EACH institute charter
17 school ~~may~~ SHALL organize as a nonprofit corporation pursuant to the
18 "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of
19 title 7, C.R.S., which shall not affect its status as a public school for any
20 purposes under Colorado law.

21 **(b) AN ENTITY THAT HOLDS A CHARTER AUTHORIZED PURSUANT**
22 **TO THIS PART 5 MAY CHOOSE TO CONTRACT WITH AN EDUCATION**
23 **MANAGEMENT PROVIDER, WHICH EDUCATION MANAGEMENT PROVIDER**
24 **MAY BE A FOR-PROFIT, A NONPROFIT, OR A NOT-FOR-PROFIT ENTITY, SO**
25 **LONG AS THE INSTITUTE CHARTER SCHOOL MAINTAINS A GOVERNING**
26 **BOARD THAT IS INDEPENDENT OF THE EDUCATION MANAGEMENT**
27 **PROVIDER.**

1 **SECTION 7.** In Colorado Revised Statutes, 22-30.5-508, **amend**
2 (1) as follows:

3 **22-30.5-508. Institute charter schools - contract contents -**
4 **regulations.** (1) (a) An approved institute charter school application shall
5 serve as the basis for a charter contract between the institute charter
6 school and the institute.

7 (b) THE INSTITUTE BOARD MAY APPROVE AN INSTITUTE CHARTER
8 SCHOOL APPLICATION SUBMITTED BY A NONPROFIT ENTITY, AND THE
9 INSTITUTE MAY ENTER INTO A CHARTER CONTRACT DIRECTLY WITH THE
10 NONPROFIT ENTITY TO OPERATE AN INSTITUTE CHARTER SCHOOL. THE
11 INSTITUTE BOARD SHALL NOT APPROVE A CHARTER SCHOOL APPLICATION
12 THAT IS SUBMITTED BY A FOR-PROFIT ENTITY OR THAT IDENTIFIES A
13 FOR-PROFIT ENTITY AS ONE OF THE CHARTER APPLICANTS, AND THE
14 INSTITUTE SHALL NOT ENTER INTO A CHARTER CONTRACT DIRECTLY WITH
15 A FOR-PROFIT ENTITY TO OPERATE AN INSTITUTE CHARTER SCHOOL.

16 **SECTION 8.** In Colorado Revised Statutes, 22-30.5-511, **add** (6)
17 as follows:

18 **22-30.5-511. Institute charter schools - term - renewal of**
19 **contract - grounds for nonrenewal or revocation - appeal.**

20 (6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
21 CONTRARY, ON AND AFTER SEPTEMBER 1, 2012, THE INSTITUTE SHALL NOT
22 RENEW A CHARTER CONTRACT TO WHICH A FOR-PROFIT ENTITY IS A PARTY.

23 **SECTION 9. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2012 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.