

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

INTRODUCED

LLS NO. 01-0522.01 Jeff Conway

HOUSE BILL 01-1141

HOUSE SPONSORSHIP

Bacon

SENATE SPONSORSHIP

(None)

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS OF THE CHARTER SCHOOL APPLICATION**
102 **PROCESS.**

Bill Summary

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

Clarifies that the general assembly intends to provide local boards of education with sufficient guidance in the charter school application and renewal process, to promote innovation, creative opportunities, and competitiveness, and to minimize adversarial negotiations.

Expands the list of items required in a charter school application to include:

- A plan of how the charter school is to meet the needs of at-risk pupils, exceptional children, and other students with

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.*

- specialized needs;
- A description of how the charter school meets and reflects the demographics of the community;
- An explanation of how the charter school will address a specific academic need not addressed by the school district;
- A plan for addressing the health, safety, and security of charter school students; and
- An agreement on the form and process for periodic evaluation of the charter school.

Requires a local board of education, when reviewing a charter application, to consider whether the establishment of the charter school:

- Will materially and adversely affect the effective and efficient use of school district facilities and resources;
- Will unduly impair the educational opportunities for other students in the granting school district; and
- Will materially and adversely affect the degree to which educational opportunities and resources are available among the schools of the school district.

Directs that any decision by the local board of education to deny, refuse to renew, or revoke a charter is final unless the decision is found to be arbitrary or capricious by the state board of education.

Eliminates the existing second appeal to the state board of education when a local board of education denies, refuses to renew, or revokes a charter.

Clarifies that a local board of education may revoke a charter if there has been a material violation of the charter school contract or there has been a failure to meet the standards in the charter school contract.

Imposes budgeting and accounting requirements on charter schools that are similar to those required for school districts, including:

- A budget and appropriation resolution for each fiscal year in a format set by the state board of education; and
- The keeping of financial records according to generally accepted accounting principles and periodic reporting.

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

2 **SECTION 1.** 22-30.5-102, Colorado Revised Statutes, is amended

3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **22-30.5-102. Legislative declaration.** (4) THE GENERAL

5 ASSEMBLY FURTHER FINDS AND DECLARES THAT THIS PART 1 IS ENACTED

6 FOR THE FOLLOWING PURPOSES:

1 (a) TO PROVIDE LOCAL BOARDS OF EDUCATION WITH SUFFICIENT
2 GUIDANCE, CLARITY, AND STRUCTURE IN THE CHARTER SCHOOL
3 APPLICATION AND RENEWAL PROCESS;

4 (b) TO PERMIT LOCAL BOARDS OF EDUCATION TO USE CHARTER
5 SCHOOLS TO HELP PROMOTE INNOVATION, CREATIVE OPPORTUNITIES, AND
6 COMPETITIVENESS IN SCHOOL DISTRICT EDUCATIONAL PROGRAMS FOR
7 STUDENTS; AND

8 (c) TO MINIMIZE ADVERSARIAL NEGOTIATIONS BETWEEN CHARTER
9 SCHOOL APPLICANTS AND LOCAL BOARDS OF EDUCATION AND TO FOSTER
10 MUTUALLY BENEFICIAL OUTCOMES.

11 **SECTION 2.** 22-30.5-103 (1), Colorado Revised Statutes, is
12 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13 **22-30.5-103. Definitions.** (1) For purposes of this part 1:

14 (a.5) "EXCEPTIONAL CHILDREN" SHALL HAVE THE SAME MEANING
15 AS SET FORTH IN SECTION 22-20-103 (3.4).

16 **SECTION 3.** 22-30.5-106 (1), Colorado Revised Statutes, is
17 amended BY THE ADDITION OF THE FOLLOWING NEW
18 PARAGRAPHS to read:

19 **22-30.5-106. Charter application - contents.** (1) The charter
20 school application shall be a proposed agreement and shall include:

21 (n) A DESCRIPTION OF HOW THE CHARTER SCHOOL PLANS TO MEET
22 THE NEEDS OF AT-RISK PUPILS, EXCEPTIONAL CHILDREN, AND OTHER
23 STUDENTS WITH SPECIALIZED NEEDS;

24 (o) A DESCRIPTION OF HOW THE CHARTER SCHOOL'S DEMOGRAPHIC
25 CHARACTERISTICS WILL REFLECT THE DEMOGRAPHIC CHARACTERISTICS OF
26 THE RELEVANT COMMUNITY WITHIN THE GRANTING SCHOOL DISTRICT;

27 (p) AN EXPLANATION OF A SPECIFIC ACADEMIC NEED, NOT

1 CURRENTLY ADDRESSED BY THE GRANTING SCHOOL DISTRICT, THAT THE
2 CHARTER SCHOOL SHALL MEET, WITH MEASURABLE EVIDENCE OF SUCH
3 NEED;

4 (q) A DESCRIPTION OF HOW THE CHARTER SCHOOL WILL
5 ADEQUATELY MEET THE HEALTH, SAFETY, AND SECURITY NEEDS OF ITS
6 STUDENTS; AND

7 (r) AN AGREEMENT ON THE FORM OF AND PROCESS FOR PERIODIC
8 EVALUATION OF THE CHARTER SCHOOL, WHICH MAY INCLUDE BUT NEED
9 NOT BE LIMITED TO SELF-EVALUATION BY THE CHARTER SCHOOL AND SITE
10 VISITS BY INDEPENDENT EVALUATORS.

11 **SECTION 4.** 22-30.5-107 (3), Colorado Revised Statutes, is
12 amended, and the said 22-30.5-107 is further amended BY THE
13 ADDITION OF A NEW SUBSECTION, to read:

14 **22-30.5-107. Charter application - process.** (2.3) THE LOCAL
15 BOARD OF EDUCATION, IN REVIEWING THE CHARTER APPLICATION
16 PURSUANT TO THIS SECTION, SHALL CONSIDER WHETHER THE
17 ESTABLISHMENT OF THE CHARTER SCHOOL:

18 (a) WILL MATERIALLY AND ADVERSELY AFFECT THE EFFECTIVE AND
19 EFFICIENT USE OF SCHOOL DISTRICT FACILITIES AND RESOURCES;

20 (b) WILL UNDULY IMPAIR THE EDUCATIONAL OPPORTUNITIES FOR
21 OTHER STUDENTS IN THE SCHOOL DISTRICT; AND

22 (c) WILL MATERIALLY AND ADVERSELY AFFECT THE DEGREE TO
23 WHICH EDUCATIONAL OPPORTUNITIES AND RESOURCES ARE AVAILABLE
24 AMONG THE SCHOOLS OF THE SCHOOL DISTRICT.

25 (3) If a local board of education denies a charter school application
26 or unilaterally imposes conditions that are unacceptable to the charter
27 applicant, the charter applicant may appeal the decision to the state board

1 pursuant to section 22-30.5-108. THE DECISION OF THE LOCAL BOARD OF
2 EDUCATION SHALL BE FINAL UNLESS FOUND TO BE ARBITRARY AND
3 CAPRICIOUS PURSUANT TO SAID SECTION.

4 **SECTION 5.** 22-30.5-108 (3) and (3.5), Colorado Revised
5 Statutes, are amended to read:

6 **22-30.5-108. Appeal - standard of review - procedures.** (3) If
7 the notice of appeal, or the motion to review by the state board, relates to
8 a local board's BOARD OF EDUCATION'S decision to deny, refuse to renew,
9 or revoke a charter or to a local board's BOARD OF EDUCATION'S unilateral
10 imposition of conditions that are unacceptable to the charter school or the
11 charter applicant, the appeal and review process shall be as follows:

12 (a) Within sixty days after receipt of the notice of appeal or the
13 making of a motion to review by the state board and after reasonable
14 public notice, the state board, at a public hearing which may be held in the
15 school district in which the proposed charter school has applied for a
16 charter, shall review the decision of the local board of education and make
17 its findings. THE STATE BOARD, WHEN REVIEWING THE DECISION OF THE
18 LOCAL BOARD OF EDUCATION, SHALL REVIEW WHETHER THE LOCAL BOARD
19 OF EDUCATION COMPLIED WITH SECTION 22-30.5-107 (2.3). If the state
20 board finds that the local board's BOARD OF EDUCATION'S decision was
21 ~~contrary to the best interests of the pupils, school district, or community~~
22 ARBITRARY AND CAPRICIOUS, the state board shall remand such decision
23 to the local board of education with written instructions for
24 reconsideration thereof. Said instructions shall include specific
25 recommendations concerning the matters requiring reconsideration. THE
26 DECISION OF THE STATE BOARD SHALL BE FINAL AND NOT SUBJECT TO
27 APPEAL.

1 (b) Within thirty days following the remand of a decision to the
2 local board of education and after reasonable public notice, the local
3 board of education, at a public hearing, shall reconsider its decision and
4 make a final decision.

5 (c) ~~If the local board of education's final decision is still to deny,~~
6 ~~refuse to renew, or revoke a charter or to unilaterally impose conditions~~
7 ~~unacceptable to the charter school or the charter applicant, a second notice~~
8 ~~of appeal may be filed with the state board within thirty days following~~
9 ~~such final decision.~~

10 (d) ~~Within thirty days following receipt of the second notice of~~
11 ~~appeal or the making of a motion for a second review by the state board~~
12 ~~and after reasonable public notice, the state board, at a public hearing,~~
13 ~~shall determine whether the final decision of the local board of education~~
14 ~~was contrary to the best interests of the pupils, school district, or~~
15 ~~community. If such a finding is made, the state board shall remand such~~
16 ~~final decision to the local board with instructions to approve the charter~~
17 ~~application. The decision of the state board shall be final and not subject~~
18 ~~to appeal.~~

19 (3.5) In lieu of a first AN appeal to the state board pursuant to
20 paragraph (a) of subsection (3) of this section, the parties may agree to
21 facilitation. Within thirty days after denial, nonrenewal, or revocation of
22 a charter by the local board of education, the parties may file a notice of
23 facilitation with the state board. The parties may continue in facilitation
24 as long as both parties agree to its continued use. If one party
25 subsequently rejects facilitation, and such rejection is not reconsidered
26 within seven days, the local board of education shall reconsider its denial,
27 nonrenewal, or revocation of a charter and make a final decision as

1 provided in paragraph (b) of subsection (3) of this section. ~~The charter~~
2 ~~applicant may file a notice of appeal with the state board as provided in~~
3 ~~paragraph (c) of subsection (3) of this section within thirty days after a~~
4 ~~local board of education's final decision to deny, not renew, or revoke a~~
5 ~~charter.~~

6 **SECTION 6.** 22-30.5-110 (3) and (5), Colorado Revised Statutes,
7 are amended to read:

8 **22-30.5-110. Charter schools - term - renewal of charter -**
9 **grounds for nonrenewal or revocation.** (3) A charter may be revoked
10 or not renewed by the local board of education if such board determines
11 that the charter school did any of the following:

12 (a) Committed a material violation of any of the conditions,
13 standards, or procedures set forth in the charter application OR CHARTER
14 CONTRACT;

15 (b) Failed to meet or make reasonable progress toward
16 achievement of the content standards or pupil performance standards
17 identified in the charter application OR CHARTER CONTRACT;

18 (c) Failed to meet generally accepted standards of fiscal
19 management; or

20 (d) Violated any provision of law from which the charter school
21 was not specifically exempted.

22 (5) A decision BY A LOCAL BOARD OF EDUCATION to revoke or not
23 to renew a charter IS FINAL UNLESS FOUND TO BE ARBITRARY AND
24 CAPRICIOUS BY THE STATE BOARD AND may be appealed or facilitation may
25 be sought pursuant to the provisions of section 22-30.5-108.

26 **SECTION 7.** 22-30.5-104 (7), Colorado Revised Statutes, is
27 amended BY THE ADDITION OF THE FOLLOWING NEW

1 PARAGRAPHS to read:

2 **22-30.5-104. Charter school - requirements - authority.**

3 (7) (d) THE GOVERNING BOARD OF EACH CHARTER SCHOOL SHALL ADOPT
4 A BUDGET AND AN APPROPRIATION RESOLUTION FOR EACH BUDGET YEAR,
5 PRIOR TO THE BEGINNING OF THE BUDGET YEAR. THE BUDGET SHALL BE
6 PRESENTED IN A FORMAT ESTABLISHED BY THE STATE BOARD BY RULE. THE
7 STATE BOARD SHALL ESTABLISH A STANDARD FORMAT FOR CHARTER
8 SCHOOL BUDGETS SO THAT SAID BUDGETS ARE SIMILAR AND COMPATIBLE
9 WITH THE BUDGETS REQUIRED OF SCHOOL DISTRICTS AND THE GUIDELINES
10 SET FORTH IN SECTION 22-44-105; EXCEPT THAT THE STATE BOARD, IN
11 DESIGNING THE CHARTER SCHOOL BUDGET FORMAT, SHALL TAKE INTO
12 ACCOUNT THE UNIQUE CHARACTERISTICS AND RESOURCES OF CHARTER
13 SCHOOLS.

14 (e) THE GOVERNING BOARD OF EACH CHARTER SCHOOL SHALL
15 CAUSE FINANCIAL RECORDS TO BE KEPT IN ACCORDANCE WITH GENERALLY
16 ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING. THE FINANCIAL
17 TRANSACTIONS OF THE CHARTER SCHOOL SHALL BE RECORDED IN GENERAL,
18 APPROPRIATION, REVENUE, AND EXPENDITURE RECORDS. APPROPRIATE
19 ENTRIES FROM THE ADOPTED BUDGET SHALL BE MADE IN THE RECORDS FOR
20 THE RESPECTIVE FUNDS. SEPARATE ACCOUNTS SHALL BE MAINTAINED FOR
21 EACH OF THE SEVERAL FUNDS PRESCRIBED BY ARTICLE 45 OF THIS TITLE.
22 CONTINUING BALANCES OF THE VARIOUS BUDGETARY ACCOUNTS SHALL BE
23 MAINTAINED ON AT LEAST A MONTHLY BASIS. THE GOVERNING BOARD OF
24 EACH CHARTER SCHOOL SHALL REVIEW THE FINANCIAL CONDITION OF SAID
25 CHARTER SCHOOL FROM TIME TO TIME DURING THE FISCAL YEAR AND MAY
26 REQUIRE THE SECRETARY, TREASURER, OR ANY EMPLOYEE WHO HAS DUTIES
27 WHICH RELATE TO THE FISCAL AFFAIRS OF SAID CHARTER SCHOOL TO

1 SUBMIT A FINANCIAL REPORT COVERING HIS OR HER FISCAL ACTIONS FROM
2 TIME TO TIME AS DEEMED APPROPRIATE BY SAID BOARD.

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