

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-1015.01 Jane Ritter

HOUSE BILL 10-1419

HOUSE SPONSORSHIP

Middleton, Carroll T., Fischer, Kerr A., Schafer S.

SENATE SPONSORSHIP

Bacon, Steadman

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 CONCERNING STANDARDS FOR THE CHARTER SCHOOL APPLICATION
102 REVIEW PROCESS.

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 changes various provisions of the application process for charter schools. The reviewing school district board of education (local board) for a charter school application (application) shall maintain a record of its review of the application. If the local board determines that an application is incomplete, it shall notify the charter applicant of that

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.

within 7 calendar days and request the necessary supplemental information. The charter school applicant shall have 7 calendar days following notification to provide any requested information. An individual who testifies at a community meeting regarding an application is required to identify any affiliation he or she has with the school district or charter applicant. If a local board does not review or denies an application, it shall state its reasons for so doing, including providing specific findings of fact and an application of those findings of fact to the standards for charter schools. The standards for charter schools applied by the school districts shall be established by rule of the state board of education (state board).

If a charter applicant appeals to the state board concerning a decision of the local board concerning an application, it shall bear the burden of proving that the local board failed to make a finding based on the standards for charter schools to be applied by the school district or some other ground permitted by law or that the local board's decision was not supported by the record.

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

2 **SECTION 1.** 22-30.5-107 (1), (2), and (4), Colorado Revised
3 Statutes, are amended, and the said 22-30.5-107 is further amended BY
4 THE ADDITION OF A NEW SUBSECTION, to read:

5 **22-30.5-107. Charter application - process - rules.** (1) (a) A
6 charter applicant cannot apply to, or enter into a charter contract with, a
7 school district unless a majority of the proposed charter school's pupils,
8 other than on-line pupils, will reside in the chartering school district or in
9 school districts contiguous thereto. The local board of education shall
10 receive and review all applications for charter schools. If the local board
11 of education does not review a charter application, it shall be deemed to
12 have denied the charter application. THE LOCAL BOARD OF EDUCATION
13 SHALL MAINTAIN A RECORD OF ITS REVIEW OF AN APPLICATION, INCLUDING
14 BUT NOT LIMITED TO, THE CHARTER SCHOOL APPLICATION, ANY
15 DOCUMENTS USED IN OR REFLECTING THE BOARD'S FORMAL
16 CONSIDERATION OF THE APPLICATION, DOCUMENTATION OF WITNESS

1 INTERVIEWS, AND MEETING MINUTES.

2 (b) Applications must be filed with the local board of education
3 by a date determined by the local board of education to be eligible for
4 consideration for the following school year. The date determined by the
5 local board of education for filing of applications shall not be any earlier
6 than August 15, or any later than October 1. Prior to any change in the
7 application deadline, the local board of education shall notify each charter
8 school applicant in the district of the proposed change by certified letter.

9 (c) The local board of education shall not charge any application
10 fees.

11 (d) If ~~such~~ THE LOCAL board OF EDUCATION finds the charter
12 school application is incomplete, the board shall, WITHIN SEVEN
13 CALENDAR DAYS AFTER RECEIVING THE CHARTER SCHOOL APPLICATION,
14 NOTIFY THE CHARTER APPLICANT AND request the necessary
15 SUPPLEMENTAL information from the charter applicant. ~~and~~ THE LOCAL
16 BOARD OF EDUCATION SHALL give the charter applicant ~~reasonable~~
17 ~~opportunity~~ SEVEN CALENDAR DAYS FOLLOWING NOTIFICATION OF THE
18 NEED FOR ADDITIONAL INFORMATION to provide THE NECESSARY
19 additional information to the local board of education for review.

20 (e) The charter school application shall be reviewed by the district
21 accountability committee, INCLUDING THE MEMBERS DESCRIBED IN
22 SUBSECTION (1.5) OF THIS SECTION, prior to consideration by the local
23 board of education.

24 (2) (a) After giving reasonable public notice, the local board of
25 education shall hold community meetings in the affected areas or the
26 entire school district to obtain information to assist the local board of
27 education in its decision to approve a charter school application. THE

1 LOCAL BOARD OF EDUCATION SHALL MAINTAIN A RECORD OF THE
2 MEETINGS. AN INDIVIDUAL WHO TESTIFIES AT A COMMUNITY MEETING
3 REGARDING A CHARTER APPLICATION SHALL IDENTIFY ANY AFFILIATION HE
4 OR SHE HAS WITH THE SCHOOL DISTRICT OR THE CHARTER APPLICANT.
5 DISCUSSION AT THE COMMUNITY MEETINGS SHALL BE LIMITED TO THE
6 APPLICATION OF THE STANDARDS GOVERNING CHARTER SCHOOLS TO THE
7 CHARTER APPLICATION.

8 (b) The local board of education shall rule by resolution on the
9 application for a charter school in a public hearing, upon reasonable
10 public notice, within seventy-five days after receiving the application
11 filed pursuant to subsection (1) of this section. All negotiations between
12 the charter school and the local board of education on the contract shall
13 be concluded, ~~by~~, and all terms of the contract agreed upon, no later than
14 ninety days after the local board of education rules by resolution on the
15 application for a charter school.

16 (4) If a local board of education denies or does not review a
17 charter school application, it shall state its reasons for the denial or refusal
18 to review, INCLUDING BUT NOT LIMITED TO SPECIFIC FINDINGS OF FACT,
19 BASED UPON THE EVIDENCE AND INFORMATION PROVIDED AND REVIEWED,
20 AND APPLICATION OF THE SPECIFIC FINDINGS OF FACT TO THE STANDARDS
21 FOR CHARTER SCHOOLS THAT THE SCHOOL DISTRICT IS TO APPLY
22 PURSUANT TO SUBSECTION (6) OF THIS SECTION. Within fifteen days after
23 denying or refusing to review a charter school application, the local board
24 of education shall notify the department of the denial or refusal and the
25 reasons therefor. If a local board of education approves a charter
26 application, it shall send a copy of the approved charter application to the
27 department within fifteen days after approving the charter application.

1 (6) ON OR BEFORE JULY 1, 2011, THE STATE BOARD BY RULE SHALL
2 ESTABLISH THE STANDARDS FOR CHARTER SCHOOLS TO BE APPLIED BY THE
3 SCHOOL DISTRICT.

4 **SECTION 2.** 22-30.5-108 (2), (3) (a), and (3) (d), Colorado
5 Revised Statutes, are amended to read:

6 **22-30.5-108. Appeal - standard of review - procedures.** (2) A
7 charter applicant or any other person who wishes to appeal a decision of
8 a local board of education concerning the denial of a charter application
9 or the nonrenewal or revocation of a charter or the unilateral imposition
10 of conditions on a charter applicant or a charter school, shall provide the
11 state board and the local board of education with a notice of appeal or of
12 facilitation within thirty days after the local board's decision. The person
13 bringing the appeal shall limit the grounds of the appeal to the grounds
14 for the denial of a charter application or the nonrenewal or revocation of
15 a charter, or the unilateral imposition of conditions on a charter applicant
16 or charter school, whichever is being appealed, specified by the local
17 board of education. The notice shall include a brief statement of the
18 reasons the appealing person contends the local board of education's
19 denial of a charter application or nonrenewal or revocation of a charter,
20 or imposition of conditions on a charter applicant or charter school was
21 in error. THE APPEALING PERSON SHALL BEAR THE BURDEN OF PROVING
22 THAT THE LOCAL BOARD OF EDUCATION FAILED TO MAKE ITS DECISION
23 BASED ON THE STANDARDS FOR CHARTER SCHOOLS TO BE APPLIED BY THE
24 SCHOOL DISTRICT PURSUANT TO SECTION 22-30.5-107 (6) OR SOME OTHER
25 GROUNDS PERMITTED BY LAW OR THAT THE LOCAL BOARD OF EDUCATION'S
26 DECISION WAS NOT SUPPORTED BY THE RECORD.

27 (3) If the notice of appeal, or the motion to review by the state

1 board, relates to a local board's decision to deny a charter application or
2 to refuse to renew or to revoke a charter or to a local board's unilateral
3 imposition of conditions that are unacceptable to the charter applicant or
4 the charter school, the appeal and review process shall be as follows:

5 (a) Within sixty days after receipt of the notice of appeal or the
6 making of a motion to review by the state board and after reasonable
7 public notice, the state board shall review the decision of the local board
8 of education and make its findings. ~~If the state board finds that the local~~
9 ~~board's decision was contrary to the best interests of the pupils, school~~
10 ~~district, or community~~ THE STATE BOARD SHALL NOT CONSIDER IN ITS
11 REVIEW ANY EVIDENCE, INFORMATION, OR DOCUMENTS THAT ARE NOT
12 CONTAINED IN THE RECORD OF THE APPEAL. IF THE STATE BOARD FINDS
13 THAT THE LOCAL BOARD DID NOT MAKE ITS DECISION BASED ON THE
14 STANDARDS FOR CHARTER SCHOOLS TO BE APPLIED BY THE SCHOOL
15 DISTRICT OR SOME OTHER GROUNDS PERMITTED BY LAW OR IF THE STATE
16 BOARD FINDS THAT THE LOCAL BOARD'S DECISION IS NOT SUPPORTED BY
17 THE RECORD, the state board shall remand ~~such~~ THE decision to the local
18 board of education with written instructions for reconsideration thereof.
19 ~~Said~~ THE instructions shall include specific recommendations concerning
20 the matters requiring reconsideration.

21 (d) Within thirty days following receipt of the second notice of
22 appeal or the making of a motion for a second review by the state board
23 and after reasonable public notice, the state board, at a public hearing,
24 shall determine whether the final decision of the local board of education
25 ~~was contrary to the best interests of the pupils, school district, or~~
26 ~~community~~ IS NOT BASED ON THE STANDARDS FOR CHARTER SCHOOLS TO
27 BE APPLIED BY THE SCHOOL DISTRICT OR SOME OTHER GROUNDS

1 PERMITTED BY LAW OR IS NOT SUPPORTED BY THE RECORD. THE PERSON
2 FILING THE APPEAL SHALL BEAR THE BURDEN OF PROVING, BASED ON THE
3 RECORD BEFORE THE STATE BOARD, THAT THE DECISION OF THE LOCAL
4 BOARD SHOULD BE SET ASIDE FOR ONE OF THESE REASONS. If such a
5 finding is made, the state board shall remand ~~such~~ THE final decision to
6 the local board with instructions to approve the charter application or to
7 renew or reinstate the charter or to approve or disapprove the conditions
8 imposed on the charter applicant or the charter school. The decision of
9 the state board shall be final and not subject to appeal.

10 **SECTION 3. Act subject to petition - effective date.** This act
11 shall take effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part shall not take effect
17 unless approved by the people at the general election to be held in
18 November 2010 and shall take effect on the date of the official
19 declaration of the vote thereon by the governor.