

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

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

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

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.

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.