

CHAPTER 170

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 10-111

BY SENATOR(S) King K., Bacon, Johnston, Scheffel, Schultheis, Spence, Steadman, Newell;
also REPRESENTATIVE(S) Massey, Summers, Gardner B., King S., McNulty, Middleton, Murray, Gerou, Kerr J., Lambert,
Roberts, Stephens, Carroll T.

AN ACT

CONCERNING PUBLIC SCHOOLS THAT ARE AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE.

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

SECTION 1. 22-5-108 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-5-108. Powers of board of cooperative services. (1) In addition to any other powers granted by law, the board of cooperative services shall have the following specific powers, to be exercised in its judgment:

(i) TO CONTRACT WITH AN INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-507 (8) (b) FOR THE USE OF A SCHOOL BUILDING AND GROUNDS, THE OPERATION AND MAINTENANCE OF THE BUILDING AND GROUNDS, AND THE PROVISION OF ANY SERVICE, ACTIVITY, OR UNDERTAKING THAT THE INSTITUTE CHARTER SCHOOL IS REQUIRED TO PERFORM TO CARRY OUT THE EDUCATIONAL PROGRAM DESCRIBED IN ITS CHARTER CONTRACT.

SECTION 2. 22-30.5-507 (8) (b), Colorado Revised Statutes, is amended to read:

22-30.5-507. Institute charter school - requirements - authority. (8) (b) An institute charter school may negotiate and contract with a school district, the governing body of a state college or university, a school food authority, A BOARD OF COOPERATIVE SERVICES, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the institute charter school is required to perform in

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

order to carry out the educational program described in its charter contract. The institute charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

SECTION 3. 22-30.5-505, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules - repeal. (17) (a) BEGINNING ON OR BEFORE AUGUST 15, 2010, THE INSTITUTE SHALL CONVENE A STUDY GROUP TO STUDY THE FEASIBILITY AND EFFECT OF IDENTIFYING INDIVIDUAL INSTITUTE CHARTER SCHOOLS AS LOCAL EDUCATION AGENCIES FOR PURPOSES OF FEDERAL LAW. AT A MINIMUM, THE STUDY GROUP SHALL INCLUDE REPRESENTATIVES FROM THE DEPARTMENT, A STATEWIDE ASSOCIATION THAT REPRESENTS SCHOOL EXECUTIVES, A STATEWIDE ASSOCIATION THAT REPRESENTS SCHOOL DISTRICT BOARDS OF EDUCATION, A STATEWIDE ASSOCIATION THAT REPRESENTS CHARTER SCHOOLS, A STATEWIDE ASSOCIATION THAT REPRESENTS TEACHERS, AND THE BOARDS OF COOPERATIVE SERVICES. ON OR BEFORE JANUARY 15, 2011, THE INSTITUTE SHALL REPORT THE STUDY GROUP'S FINDINGS AND MAKE RECOMMENDATIONS TO THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, WITH THE REPORT THE INSTITUTE SUBMITS PURSUANT TO SECTION 22-30.5-513 (10) (b).

(b) THIS SUBSECTION (17) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 4. 22-30.5-506 (1), Colorado Revised Statutes, is amended, and the said 22-30.5-506 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-30.5-506. State charter school institute fund - created. (1) The state charter school institute is authorized to receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this part 5, subject to the terms and conditions under which given; except that no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. Any gifts, grants, or donations received pursuant to this subsection (1) shall be transmitted to the state treasurer who shall credit the same to the state charter school institute fund, hereinafter referred to as the "fund", which fund is hereby created in the state treasury. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, moneys in the fund shall be subject to annual appropriation by the general assembly to the institute, to offset the actual and reasonable costs incurred by the institute in implementing this part 5. All investment earnings derived from the deposit and investment of the moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be transferred to the general fund or any other fund.

(3) THE STATE CHARTER SCHOOL INSTITUTE SHALL CREATE IN THE FUND A SCHOOL FOOD AUTHORITY ACCOUNT, AND ANY MONEYS RECEIVED BY THE STATE CHARTER SCHOOL INSTITUTE AS A RESULT OF ITS OPERATIONS AS A SCHOOL FOOD AUTHORITY SHALL BE CREDITED TO THE SCHOOL FOOD AUTHORITY ACCOUNT. ANY MONEYS CREDITED TO THE SCHOOL FOOD AUTHORITY ACCOUNT ARE CONTINUOUSLY

APPROPRIATED TO THE STATE CHARTER SCHOOL INSTITUTE TO OFFSET THE COSTS INCURRED IN OPERATING AS A SCHOOL FOOD AUTHORITY.

SECTION 5. 22-30.5-515.5 (1) (a), (2) (b) (III), and (2) (c) (III), Colorado Revised Statutes, are amended, and the said 22-30.5-515.5 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-30.5-515.5. Institute charter school assistance fund - created - grants - loans - rules. (1) (a) There is hereby created in the state treasury the institute charter school ~~capital construction~~ assistance fund, referred to in this section as the "fund", that shall consist of one percent of the per pupil funding for institute charter schools that the state charter school institute withholds pursuant to section 22-30.5-513 (4) (a) (I.5) (B). The moneys in the fund shall be subject to annual appropriation by the general assembly to the institute for the direct and indirect costs associated with awarding grants and interest-free loans pursuant to this section to assist institute charter schools in meeting capital construction needs, including but not limited to obtaining financial assistance for capital construction through the "Building Excellent Schools Today Act", article 43.7 of this title or repaying bonds issued by the Colorado educational and cultural facilities authority, created in section 23-15-104, C.R.S., for construction of institute charter school buildings, OR IN ADDRESSING OTHER FACILITY OR SPECIAL EDUCATION SERVICES FUNDING EMERGENCIES, AS DEFINED BY RULE OF THE INSTITUTE BOARD.

(2) An institute charter school that seeks a grant or an interest-free loan pursuant to this section shall submit to the state charter school institute, in accordance with the timelines and procedures adopted by rule of the institute board, an application that includes, at a minimum:

(b) For an institute charter school that seeks a grant or an interest-free loan to use in repaying bonds or notes issued on the institute charter school's behalf by the Colorado educational and cultural facilities authority pursuant to article 15 of title 23, C.R.S.:

(III) Information concerning any other source of funding available to the institute charter school; ~~and~~

(c) For an institute charter school that seeks a grant or an interest-free loan to assist in meeting other capital construction costs:

(III) Information concerning any other source of funding available to the institute charter school; AND

(d) FOR AN INSTITUTE CHARTER SCHOOL THAT SEEKS A GRANT OR AN INTEREST-FREE LOAN TO ASSIST IN ADDRESSING A FACILITY OR SPECIAL EDUCATION SERVICES FUNDING EMERGENCY:

(I) A DESCRIPTION OF THE INSTITUTE CHARTER SCHOOL'S EMERGENCY AND HOW IT RELATES TO ITS FACILITY OR OTHER CAPITAL ASSET, IF APPLICABLE;

(II) A DESCRIPTION OF THE CAPITAL CONSTRUCTION NEEDED TO REMEDY THE EMERGENCY IF IT IS A FACILITY EMERGENCY;

(III) A DESCRIPTION OF THE SPECIAL EDUCATION SERVICES REQUIRED BY THE INDIVIDUALIZED EDUCATION PROGRAM FOR THE STUDENT AT ISSUE IF IT IS A SPECIAL EDUCATION FUNDING EMERGENCY; AND

(IV) A DESCRIPTION OF WHEN THE FUNDING IS NEEDED.

SECTION 6. 22-30.5-505 (4) (I), Colorado Revised Statutes, is amended to read:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules. (4) In addition to any other powers granted by law to the institute board, the institute board shall have the following powers:

(I) To award grants from the institute charter school ~~capital construction~~ assistance ~~grant~~ fund as provided in section 22-30.5-515.5.

SECTION 7. 22-30.5-513 (4) (a) (I.5) (B) and (4) (a) (I.5) (C), Colorado Revised Statutes, are amended to read:

22-30.5-513. Institute charter schools - definitions - funding. (4) (a) (I.5) The institute shall forward to each institute charter school an amount equal to the institute charter school's pupil enrollment multiplied by the accounting district's adjusted per pupil revenues of the institute charter school's accounting district, minus:

(B) An amount equal to one percent of the amount calculated for the institute charter school pursuant to subparagraph (I) of this paragraph (a), which amount the institute shall transfer to the state treasurer for credit to the institute charter school ~~capital construction~~ assistance fund created in section 22-30.5-515.5;

(C) Any amount agreed to by the institute and the institute charter school for repayment of a loan to the institute charter school from the institute charter school ~~capital construction~~ assistance fund created in section 22-30.5-515.5;

SECTION 8. 22-43.7-109 (9) (c) (III.5), Colorado Revised Statutes, is amended to read:

22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements. (9) Except as otherwise provided in subsection (10) of this section, the board shall recommend and the state board shall approve financial assistance for a public school facility capital construction project only if the applicant provides matching moneys in an amount equal to a percentage of the total financing for the project determined by the board after consideration of the applicant's financial capacity, as determined by the following factors:

(c) With respect to a charter school's application for financial assistance:

(III.5) If the charter school is an institute charter school, whether the charter school has applied for or received a grant from the institute charter school ~~capital construction~~ assistance ~~grant~~ fund created in section 22-30.5-515.5 to assist the charter school in providing matching moneys;

SECTION 9. 22-30.5-510 (2) (b), Colorado Revised Statutes, is amended to read:

22-30.5-510. Institute charter school application - process - rule-making.

(2) (b) The institute board shall rule by resolution on the application for an institute charter school in a public hearing, following reasonable public notice, within ~~sixty~~ SEVENTY-FIVE days after receiving the application filed pursuant to subsection (1) of this section. At the public hearing, prior to adopting the resolution, the institute board shall make available to persons in attendance at the hearing a written summary of the testimony received at the meeting held pursuant to paragraph (a) of this subsection (2) and, on the record, shall consider the testimony and its application to the institute board's decision.

SECTION 10. 22-30.5-505 (12) (a), (12) (b) (I), and (12) (b) (II) (B), Colorado Revised Statutes, are amended to read:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules.

(12) (a) ~~On or before August 1, 2008,~~ The institute shall collect from ~~institute charter schools~~ EACH INSTITUTE CHARTER SCHOOL AUTHORIZED ON OR AFTER JULY 1, 2010, the data specified in paragraph (b) of this subsection (12) FOR THE INSTITUTE CHARTER SCHOOL'S FIRST ACADEMIC YEAR OF OPERATION. At a minimum, the institute shall require the institute charter ~~schools~~ ~~to update~~ SCHOOL TO SUBMIT the collected data ~~on March 1, May 1, and July 1 of each year starting in 2009~~ BY AUGUST 1 OF THE INSTITUTE CHARTER SCHOOL'S FIRST ACADEMIC YEAR OF OPERATION AND TO UPDATE THE INFORMATION, IF NECESSARY, BY THE FOLLOWING MAY 1. Upon receipt of a request from a school district, the institute shall provide a copy of the collected data to the school district.

(b) The data collected pursuant to this subsection (12) shall include, at a minimum:

(I) The projected aggregate number of students enrolling in THE institute charter ~~schools~~ SCHOOL for the ~~upcoming~~ academic year who were enrolled in schools of the school district for the preceding academic year; and

(II) For each student included in subparagraph (I) of this paragraph (b), to the extent known:

(B) The name of the institute charter school and the grade in which the student is enrolled for the ~~upcoming~~ academic year.

SECTION 11. Repeal. 24-101-105 (1) (c), Colorado Revised Statutes, is repealed as follows:

~~24-101-105. Application of this code. (1) (c) The state charter school institute, established in section 22-30.5-503, C.R.S., may, by formal action of the governing board of the state charter school institute, elect to be exempt from the provisions of this code and may enter into contracts independent of the terms specified in this code.~~

SECTION 12. 24-101-301 (10), Colorado Revised Statutes, is amended to read:

24-101-301. Definitions. The terms defined in this section shall have the following meanings whenever they appear in this code, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular article or portion thereof:

(10) "Governmental body" means any department, commission, council, board, bureau, committee, institution of higher education, agency, government corporation, or other establishment or official, other than an elected official, of the executive branch of state government in this state; except that:

(a) The governing board of each institution of higher education, by formal action of the board, and the Colorado commission on higher education, by formal action of the commission, may elect to be excluded from the meaning of "governmental body". ~~and~~

(b) ~~The state charter school institute, established in section 22-30.5-503, C.R.S., may, by formal action of the governing board of the state charter school institute, elect to be excluded from the meaning of "governmental body".~~

SECTION 13. 22-30.5-505 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules. (3) The mission of the institute board shall be to foster high-quality public school choices offered through institute charter schools, including particularly schools that are focused on closing the achievement gap for at-risk students. In discharging its duties pursuant to this part 5, the institute shall:

(d.5) MEET AT LEAST ONCE EACH YEAR WITH THE SCHOOL ACCOUNTABILITY COMMITTEES OF THE INSTITUTE CHARTER SCHOOLS TO DISCUSS ISSUES CONCERNING ACCOUNTABILITY AND ACCREDITATION OF INSTITUTE CHARTER SCHOOLS;

SECTION 14. 22-30.5-513 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-513. Institute charter schools - definitions - funding. (4) (d) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (1.5) OF PARAGRAPH (a) OF THIS SUBSECTION (4), FOR ANY BUDGET YEAR IN WHICH THE TOTAL AMOUNT OF TOTAL PROGRAM FUNDING, INCLUDING FUNDING FOR INSTITUTE CHARTER SCHOOLS, IS REDUCED PURSUANT TO SECTION 22-54-104 (5) (g), THE INSTITUTE SHALL NOT WITHHOLD FROM AN INSTITUTE CHARTER SCHOOL THE AMOUNT SPECIFIED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (1.5) OF PARAGRAPH (a) OF THIS SUBSECTION (4).

SECTION 15. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect

unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor; except that section 14 of this act shall take effect only if House Bill 10-1369 is enacted and becomes law.

Approved: April 29, 2010