

CHAPTER 250

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 10-161

BY SENATOR(S) King K., Brophy, Cadman, Harvey, Kopp, Lundberg, Mitchell, Penry, Renfroe, Scheffel, Schultheis, Spence, White;
also REPRESENTATIVE(S) Massey, Apuan, Casso, Gerou, Kefalas, Kerr J., King S., Lambert, Nikkel, Priola, Rice, Roberts, Stephens, Summers.

AN ACT**CONCERNING AUTHORIZING CHARTER SCHOOLS TO ENTER INTO CONTRACTUAL AGREEMENTS, AND MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 22-30.5-104 (7) (b), Colorado Revised Statutes, is amended to read:

22-30.5-104. Charter school - requirements - authority. (7) (b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, the state of Colorado, a school food authority, A BOARD OF COOPERATIVE SERVICES, ANOTHER DISTRICT CHARTER SCHOOL, AN INSTITUTE CHARTER SCHOOL, 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 charter school is required or chooses to perform in order to carry out the educational program described in its charter contract. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The 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 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, ANOTHER INSTITUTE CHARTER SCHOOL, A DISTRICT

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

CHARTER SCHOOL, 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 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. 22-5-103, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

22-5-103. Definitions. As used in this article, unless the context otherwise requires:

(2.3) "DISTRICT CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT BOARD OF EDUCATION PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE.

(2.7) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

SECTION 4. 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 A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-104 (7) (b) OR 22-30.5-507 (8) (b), RESPECTIVELY, 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 DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL IS REQUIRED TO PERFORM TO CARRY OUT THE EDUCATIONAL PROGRAM DESCRIBED IN ITS CHARTER CONTRACT.

SECTION 5. 22-30.5-503, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-503. State charter school institute - establishment. (3.5) (a) THE STATE CHARTER SCHOOL INSTITUTE MAY ACT AS THE LOCAL EDUCATION AGENCY AND FISCAL AGENT FOR A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT CHOOSES TO APPLY FOR A GRANT THROUGH A NONFORMULAIC, COMPETITIVE GRANT PROGRAM CREATED BY FEDERAL STATUTE; EXCEPT THAT THE PROVISIONS OF THIS SUBSECTION (3.5) SHALL NOT APPLY TO AN APPLICATION FOR:

(I) A GRANT PROGRAM CREATED IN THE FEDERAL "INDIVIDUAL WITH DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED, OR IN ITS IMPLEMENTING REGULATIONS; OR

(II) A GRANT PROGRAM CREATED IN THE FEDERAL "ELEMENTARY AND

SECONDARY EDUCATION ACT OF 1965", 20 U.S.C. SEC. 6301 ET SEQ., AS AMENDED, OR IN ITS IMPLEMENTING REGULATIONS.

(b) IN ACTING AS A LOCAL EDUCATION AGENCY AND FISCAL AGENT PURSUANT TO THIS SUBSECTION (3.5), THE INSTITUTE SHALL TREAT DISTRICT CHARTER SCHOOLS AND INSTITUTE CHARTER SCHOOLS EQUALLY.

(c) THE INSTITUTE BOARD, BY RULE, MAY ESTABLISH A FEE THAT A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL SHALL PAY IF IT REQUESTS THAT THE INSTITUTE ACT AS THE LOCAL EDUCATION AGENCY AND FISCAL AGENT FOR THE CHARTER SCHOOL PURSUANT TO THIS SUBSECTION (3.5). THE AMOUNT OF THE FEE SHALL NOT EXCEED THE DIRECT COSTS INCURRED BY THE INSTITUTE IN IMPLEMENTING THE PROVISIONS OF THIS SUBSECTION (3.5). ANY AMOUNT RECEIVED BY THE INSTITUTE FROM FEES PAID PURSUANT TO THIS SUBSECTION (3.5) IS CONTINUOUSLY APPROPRIATED TO THE INSTITUTE FOR THE COSTS INCURRED IN IMPLEMENTING THIS SUBSECTION (3.5). THE INSTITUTE BOARD SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION (3.5).

SECTION 6. 22-30.5-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-104. Charter school - requirements - authority. (1) IF A CHARTER SCHOOL CHOOSES TO APPLY FOR A GRANT THROUGH A NONFORMULAIC, COMPETITIVE GRANT PROGRAM CREATED BY FEDERAL STATUTE, THE CHARTER SCHOOL, PURSUANT TO THE PROVISIONS OF SECTION 22-30.5-503 (3.5), MAY REQUEST THAT THE STATE CHARTER SCHOOL INSTITUTE ACT AS A LOCAL EDUCATION AGENCY AND FISCAL AGENT FOR THE CHARTER SCHOOL FOR PURPOSES OF THE GRANT. THE CHARTER SCHOOL SHALL PAY THE FEE, IF ANY, IMPOSED BY THE STATE CHARTER SCHOOL INSTITUTE BOARD AS PROVIDED IN SECTION 22-30.5-503 (3.5).

SECTION 7. Article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 6
CHARTER SCHOOL COLLABORATIVES

22-30.5-601. Short title. THIS PART 6 SHALL BE KNOWN AND MAY BE CITED AS THE "CHARTER SCHOOL COLLABORATIVE ACT".

22-30.5-602. Definitions. AS USED IN THIS PART 6, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORIZER" MEANS A SCHOOL DISTRICT BOARD OF EDUCATION THAT AUTHORIZES A DISTRICT CHARTER SCHOOL PURSUANT TO PART 1 OF THIS ARTICLE OR THE STATE CHARTER SCHOOL INSTITUTE BOARD CREATED IN SECTION 22-30.5-505.

(2) "CHARTER SCHOOL" MEANS A DISTRICT CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 1 OF THIS ARTICLE OR AN INSTITUTE CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 5 OF THIS ARTICLE.

22-30.5-603. Charter school collaborative - creation - public status -

structure. (1) TWO OR MORE CHARTER SCHOOLS MAY CONTRACT WITH ONE ANOTHER TO FORM A CHARTER SCHOOL COLLABORATIVE THAT IS A LEGAL ENTITY SEPARATE FROM THE CONTRACTING CHARTER SCHOOLS AND IS AUTHORIZED TO PROVIDE ANY FUNCTION, SERVICE, OR FACILITY THAT IS LAWFULLY AUTHORIZED FOR EACH OF THE CONTRACTING CHARTER SCHOOLS. A CHARTER SCHOOL NEED NOT OBTAIN THE APPROVAL OF ITS AUTHORIZER TO CREATE OR PARTICIPATE IN A CHARTER SCHOOL COLLABORATIVE.

(2) A CHARTER SCHOOL COLLABORATIVE CREATED PURSUANT TO THIS SECTION SHALL BE A PUBLIC ENTITY THAT EXISTS SEPARATELY FROM THE INDIVIDUAL CHARTER SCHOOLS THAT ARE PARTICIPATING IN THE COLLABORATIVE. THE CHARTER SCHOOL COLLABORATIVE SHALL HOLD AND MAY EXERCISE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS, LIABILITIES, AND DISABILITIES OF A PUBLIC ENTITY, INCLUDING BUT NOT LIMITED TO THE POWER TO CONTRACT, TO SUE OR BE SUED, AND TO HOLD TITLE TO PROPERTY; EXCEPT THAT A CHARTER SCHOOL COLLABORATIVE MAY HOLD TITLE TO REAL PROPERTY ONLY FOR THE USE OF THE PARTICIPATING CHARTER SCHOOLS. THE CHARTER SCHOOL COLLABORATIVE SHALL BE SOLELY RESPONSIBLE FOR ITS DEBTS, LIABILITIES, AND OBLIGATIONS, AND SAID DEBTS, LIABILITIES, OR OBLIGATIONS SHALL NOT BE THE RESPONSIBILITY OF THE PARTICIPATING CHARTER SCHOOLS OR THEIR AUTHORIZERS.

(3) A CHARTER SCHOOL COLLABORATIVE CREATED PURSUANT TO THIS SECTION SHALL BE DEEMED A LOCAL PUBLIC BODY FOR PURPOSES OF THE OPEN MEETING REQUIREMENTS OF SECTION 24-6-402, C.R.S. EXCEPT AS OTHERWISE SPECIFICALLY AUTHORIZED IN THIS SECTION, A CHARTER SCHOOL COLLABORATIVE SHALL BE SUBJECT TO ALL STATE STATUTES REGULATING CHARTER SCHOOLS AS PUBLIC ENTITIES AS IF THE CHARTER SCHOOL COLLABORATIVE WERE AUTHORIZED BY A SCHOOL DISTRICT BOARD OF EDUCATION.

(4) (a) A CHARTER SCHOOL COLLABORATIVE, AS A SEPARATE LEGAL ENTITY, SHALL EXERCISE ADMINISTRATIVE CONTROL OR DIRECTION IN PROVIDING OR OPERATING SPECIFIED FUNCTIONS, SERVICES, OR FACILITIES FOR THE PARTICIPATING CHARTER SCHOOLS. THE CONTRACT CREATING A CHARTER SCHOOL COLLABORATIVE SHALL SET FORTH FULLY THE PURPOSES, POWERS, RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES, FINANCIAL AND OTHERWISE, OF THE CHARTER SCHOOL COLLABORATIVE AND OF THE CONTRACTING CHARTER SCHOOLS. THE PARTICIPATING CHARTER SCHOOLS SHALL DELEGATE TO THE CHARTER SCHOOL COLLABORATIVE THE POWERS NECESSARY TO ENABLE THE CHARTER SCHOOL COLLABORATIVE TO PROVIDE OR OPERATE THE FUNCTIONS, SERVICES, OR FACILITIES SPECIFIED IN THE CONTRACT.

(b) IN ADDITION TO ANY DUTY REQUIRED TO BE PERFORMED BY LAW OR BY THE CONTRACT CREATING A CHARTER SCHOOL COLLABORATIVE, THE COLLABORATIVE SHALL HAVE AND PERFORM THE FOLLOWING DUTIES:

(I) TO ACT CONSISTENTLY WITH THE PROVISIONS OF THIS ARTICLE;

(II) TO ABIDE BY THE CONTRACT THAT CREATES AND ORGANIZES THE CHARTER SCHOOL COLLABORATIVE; AND

(III) TO ACT CONSISTENTLY WITH THE CHARTER CONTRACT AND MISSION OF EACH CHARTER SCHOOL THAT PARTICIPATES IN THE CHARTER SCHOOL COLLABORATIVE.

(5) A CONTRACT TO ESTABLISH A CHARTER SCHOOL COLLABORATIVE SHALL, AT A MINIMUM, SPECIFY:

(a) THE NAME AND PURPOSE OF THE CHARTER SCHOOL COLLABORATIVE AND THE FUNCTIONS, SERVICES, OR FACILITIES THAT THE CHARTER SCHOOL COLLABORATIVE SHALL PROVIDE OR OPERATE;

(b) THE ESTABLISHMENT AND ORGANIZATION OF A BOARD OF DIRECTORS OF THE CHARTER SCHOOL COLLABORATIVE, INCLUDING BUT NOT LIMITED TO:

(I) THE NUMBER OF DIRECTORS, THE MANNER OF APPOINTMENT, THE TERMS OF OFFICE, THE AMOUNT OF COMPENSATION, IF ANY, AND THE PROCEDURES FOR FILLING VACANCIES;

(II) THE OFFICERS OF THE CHARTER SCHOOL COLLABORATIVE, THE MANNER OF THEIR SELECTION, AND THEIR DUTIES;

(III) THE VOTING REQUIREMENTS FOR ACTION BY THE BOARD OF DIRECTORS; EXCEPT THAT, UNLESS SPECIFICALLY PROVIDED OTHERWISE IN THE CONTRACT, A MAJORITY OF DIRECTORS SHALL CONSTITUTE A QUORUM AND A MAJORITY OF A QUORUM SHALL BE NECESSARY TO AUTHORIZE ANY ACTION TAKEN BY THE BOARD OF DIRECTORS;

(c) PROVISIONS FOR THE DISPOSITION, DIVISION, OR DISTRIBUTION OF ANY PROPERTY OR ASSETS OF THE CHARTER SCHOOL COLLABORATIVE, INCLUDING BUT NOT LIMITED TO DISTRIBUTION UPON DISSOLUTION OF THE CHARTER SCHOOL COLLABORATIVE OF THE EQUITY IN ANY REAL PROPERTY THAT THE CHARTER SCHOOL COLLABORATIVE MAY HOLD;

(d) THE TERM OF THE CONTRACT, WHICH MAY BE CONTINUED FOR A DEFINITE TERM OR UNTIL RESCINDED OR TERMINATED, AND THE METHOD, IF ANY, BY WHICH IT MAY BE RESCINDED OR TERMINATED; EXCEPT THAT THE CONTRACT MAY NOT BE RESCINDED OR TERMINATED SO LONG AS THE CHARTER SCHOOL COLLABORATIVE HAS OBLIGATIONS OUTSTANDING, UNLESS PROVISIONS FOR FULL PAYMENT OF THE OBLIGATIONS, BY ESCROW OR OTHERWISE, ARE MADE PURSUANT TO THE TERMS OF THE OBLIGATIONS; AND

(e) THE TERMS, IF ANY, UNDER WHICH A CHARTER SCHOOL THAT IS NOT INITIALLY A PARTICIPANT IN THE CHARTER SCHOOL COLLABORATIVE MAY JOIN THE COLLABORATIVE AND UNDER WHICH A CHARTER SCHOOL PARTICIPANT MAY WITHDRAW FROM THE CHARTER SCHOOL COLLABORATIVE.

22-30.5-604. Charter school collaborative - nonexclusive. NOTHING IN THIS PART 6 SHALL PROHIBIT A CHARTER SCHOOL FROM PARTICIPATING AS A MEMBER IN AN ORGANIZATION FORMED FOR THE PURPOSE OF MUTUAL SUPPORT, CONTRACTING FOR SERVICES, PARTICIPATING IN INTERGOVERNMENTAL AGREEMENTS OTHERWISE AUTHORIZED BY LAW, OR PARTICIPATING IN ANY OTHER FORM OF ORGANIZATION AUTHORIZED BY LAW AND APPROPRIATE TO COLORADO PUBLIC OR NONPROFIT ORGANIZATIONS.

22-30.5-605. Administration fee. THE STATE BOARD OF EDUCATION, BY RULE,

MAY ESTABLISH A FEE TO BE PAID BY EACH CHARTER SCHOOL COLLABORATIVE TO OFFSET ANY DIRECT COSTS THAT THE DEPARTMENT OF EDUCATION MAY INCUR IN COLLECTING DATA FROM OR REGULATING THE CHARTER SCHOOL COLLABORATIVE. THE AMOUNT OF THE FEE SHALL NOT EXCEED THE AMOUNT OF SAID DIRECT COSTS. ANY AMOUNT IN FEES RECEIVED BY THE DEPARTMENT OF EDUCATION PURSUANT TO THIS SECTION IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR SAID DIRECT COSTS.

SECTION 8. Appropriation - adjustments to the 2010 long bill. For the implementation of this act, appropriations made in the general appropriation act for the fiscal year beginning July 1, 2010, shall be adjusted as follows: The appropriation to the department of education, for allocation to the state charter school institute created in section 22-30.5-503, Colorado Revised Statutes, for the purposes of acting as a local education agency and fiscal agent for charter schools, is increased by 1.0 FTE. This 1.0 FTE shall be supported by fees collected pursuant to section 22-30.5-503 (3.5) (c), Colorado Revised Statutes. Moneys received by the state charter school institute for this purpose are continuously appropriated to the state charter school institute for costs incurred pursuant to section 22-30.5-503 (3.5), Colorado Revised Statutes.

SECTION 9. 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.

Approved: May 21, 2010