

CHAPTER 242

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 11-1121

BY REPRESENTATIVE(S) Ramirez, Massey, McNulty, Szabo, Baumgardner, Beezley, Brown, Casso, DelGrosso, Holbert, Kerr J., Murray, Nikkel, Scott, Stephens, Summers, Todd, Labuda, Priola;
also SENATOR(S) King K., White.

AN ACT

CONCERNING DISQUALIFICATION FROM SCHOOL EMPLOYMENT FOR CONVICTION OF CERTAIN OFFENSES, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Short title. This act shall be known and may be cited as the "Safer Schools Act of 2011".

SECTION 2. 22-30.5-110.7 (5), Colorado Revised Statutes, is amended, and the said 22-30.5-110.7 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-30.5-110.7. Fingerprint-based criminal history record checks - charter school employees - procedures - definitions. (5) (a) A charter school may employ a person in the charter school prior to receiving the results of the person's fingerprint-based criminal history record check; except that:

(I) The charter school may terminate the employment of the person if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (2) of this section; AND

(II) THE CHARTER SCHOOL SHALL TERMINATE THE PERSON'S EMPLOYMENT IF THE RESULTS DISCLOSE A CONVICTION FOR AN OFFENSE DESCRIBED IN SECTION 22-32-109.8 (6.5).

(b) The charter school shall notify the proper district attorney of ~~such~~ inconsistent results AS DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (5) for purposes of action or possible prosecution.

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

(6.5) AN EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT WITH A CHARTER SCHOOL IS DISQUALIFIED FROM EMPLOYMENT IF THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK COMPLETED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT DISCLOSE A CONVICTION FOR AN OFFENSE DESCRIBED IN SECTION 22-32-109.8 (6.5). NOTHING IN THIS SECTION OR IN SECTION 22-32-109.8 SHALL CREATE FOR A PERSON A PROPERTY RIGHT IN OR ENTITLEMENT TO EMPLOYMENT OR CONTINUED EMPLOYMENT WITH A CHARTER SCHOOL OR IMPAIR A CHARTER SCHOOL'S RIGHT TO TERMINATE EMPLOYMENT FOR A NONDISCRIMINATORY REASON.

SECTION 3. 22-30.5-511.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-511.5. Background investigation - prohibition against employing persons - institute charter school employees' information provided to department. (2.5) AN EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT WITH AN INSTITUTE CHARTER SCHOOL IS DISQUALIFIED FROM EMPLOYMENT IF THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK COMPLETED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT DISCLOSE A CONVICTION FOR AN OFFENSE DESCRIBED IN SECTION 22-32-109.8 (6.5). NOTHING IN THIS SECTION OR IN SECTION 22-32-109.8 SHALL CREATE FOR A PERSON A PROPERTY RIGHT IN OR ENTITLEMENT TO EMPLOYMENT OR CONTINUED EMPLOYMENT WITH AN INSTITUTE CHARTER SCHOOL OR IMPAIR AN INSTITUTE CHARTER SCHOOL'S RIGHT TO TERMINATE EMPLOYMENT FOR A NONDISCRIMINATORY REASON.

SECTION 4. 22-32-109.8 (3), (5), (6), (7), and (8), Colorado Revised Statutes, are amended, and the said 22-32-109.8 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

22-32-109.8. Applicants selected for nonlicensed positions - submittal of form and fingerprints - prohibition against employing persons - department database. (3) In addition to any other requirements established by law, the submittal of fingerprints and the form pursuant to subsection (1) of this section shall be a prerequisite to the employment of ~~any~~ A person in a ~~noncertificated~~ NONLICENSED position in a school district, and no person shall be so employed who has not complied with the provisions of subsection (1) of this section.

(5) (a) A school district may employ ~~any~~ A person in a ~~noncertificated~~ NONLICENSED position in ~~such~~ THE school district prior to receiving the results regarding ~~such~~ THE selected applicant's fingerprints; however:

(I) The school district may terminate the PERSON'S employment ~~of such person~~ if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (1) of this section; AND

(II) THE SCHOOL DISTRICT SHALL TERMINATE THE PERSON'S EMPLOYMENT IF THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK COMPLETED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT DISCLOSE A CONVICTION FOR AN OFFENSE DESCRIBED IN SUBSECTION (6.5) OF THIS SECTION.

(b) The school district shall notify the proper district attorney of ~~such~~ inconsistent results AS DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (5) for purposes of action or possible prosecution.

(6) (a) When ~~any~~ A school district finds good cause to believe that ~~any~~ A nonlicensed ~~personnel~~ PERSON employed by ~~such~~ THE school district has been convicted of ~~any~~ A felony or misdemeanor other than a misdemeanor traffic offense or traffic infraction subsequent to ~~such~~ HIS OR HER employment, ~~such~~ THE school district shall require ~~such~~ THE person to submit to the school district a complete set of his or her fingerprints taken by a qualified law enforcement agency. ~~Said~~ THE fingerprints shall be submitted within twenty days ~~of~~ AFTER receipt of written notification from the school district. The school district shall forward the fingerprints of ~~such~~ THE person to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. IF THE RESULTS OF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK COMPLETED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT DISCLOSE A CONVICTION FOR AN OFFENSE DESCRIBED IN SUBSECTION (6.5) OF THIS SECTION, THE SCHOOL DISTRICT SHALL TERMINATE THE PERSON'S EMPLOYMENT.

(b) School districts shall not charge ~~noncertificated~~ NONLICENSED personnel any fees for the direct and indirect costs of ~~such~~ THE school district for fingerprint processing performed pursuant to the provisions of this subsection (6).

(6.5) (a) EXCEPT AS PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (6.5), A PERSON EMPLOYED IN OR APPLYING TO A SCHOOL DISTRICT FOR EMPLOYMENT IN A NONLICENSED POSITION IS DISQUALIFIED FROM EMPLOYMENT IF:

(I) THE APPLICANT OR EMPLOYEE HAS BEEN CONVICTED OF, OR CONVICTED OF ATTEMPT, SOLICITATION, OR CONSPIRACY TO COMMIT, ONE OF THE FOLLOWING OFFENSES:

(A) FELONY CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401, C.R.S.;

(B) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), C.R.S.;

(C) A FELONY INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S.;

(D) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (6.5), A FELONY, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3, C.R.S.;

(E) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (6.5), A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE 18 OF TITLE 18, C.R.S., COMMITTED ON OR AFTER AUGUST 25, 2012;

(F) FELONY INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302, C.R.S.; OR

(G) AN OFFENSE IN ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY

SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE AN OFFENSE DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (F) OF THIS SUBPARAGRAPH (I);

(II) THE APPLICANT OR EMPLOYEE FAILS TO SUBMIT FINGERPRINTS ON A TIMELY BASIS FOLLOWING RECEIPT OF THE WRITTEN REQUEST FROM THE SCHOOL DISTRICT PURSUANT TO SUBSECTION (1) OR (6) OF THIS SECTION.

(b) THE DISQUALIFICATION FROM EMPLOYMENT PURSUANT TO SUB-SUBPARAGRAPHS (D) AND (E) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (6.5) SHALL ONLY APPLY FOR A PERIOD OF FIVE YEARS FOLLOWING THE DATE THE OFFENSE WAS COMMITTED, AND, FOR THE OFFENSE DESCRIBED IN SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (6.5), THE PERSON SHALL HAVE SUCCESSFULLY COMPLETED ANY DOMESTIC VIOLENCE TREATMENT REQUIRED BY THE COURT PRIOR TO EMPLOYMENT. AN EMPLOYEE TERMINATED FROM EMPLOYMENT SOLELY ON THE BASIS OF THE DISQUALIFICATION CONTAINED IN SUB-SUBPARAGRAPHS (D) AND (E) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (6.5) MAY REAPPLY FOR EMPLOYMENT AFTER FIVE YEARS HAVE PASSED SINCE THE DATE THE OFFENSE WAS COMMITTED.

(c) NOTHING IN THIS SUBSECTION (6.5) SHALL REQUIRE A SECOND OR SUBSEQUENT FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO BE CONDUCTED FOR AN EMPLOYEE FOR WHOM A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK HAS BEEN COMPLETED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (6.5).

(d)(I) NOTWITHSTANDING THE DISQUALIFICATION FROM EMPLOYMENT SET FORTH IN THIS SUBSECTION (6.5), A SCHOOL DISTRICT MAY EMPLOY A PERSON CONVICTED OF AN OFFENSE LISTED IN SUB-SUBPARAGRAPHS (D) AND (E) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (6.5) AFTER CONDUCTING AN ASSESSMENT OF THE CURRENT SAFETY RISK POSED BY THE PERSON.

(II) A PERSON WHO IS OR WOULD BE DISQUALIFIED FROM EMPLOYMENT PURSUANT TO SUB-SUBPARAGRAPHS (D) AND (E) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (6.5) MAY SUBMIT A WRITTEN REQUEST TO THE SCHOOL DISTRICT FOR RECONSIDERATION OF THE DISQUALIFICATION FROM EMPLOYMENT. RECONSIDERATION SHALL BE BASED UPON THE SCHOOL DISTRICT'S ASSESSMENT OF THE CURRENT SAFETY RISK IN HIRING THE PERSON OR IN CONTINUING THE PERSON'S EMPLOYMENT AFTER CONSIDERING:

- (A) THE SERIOUSNESS AND NATURE OF THE DISQUALIFYING OFFENSE;
- (B) THE TIME ELAPSED SINCE THE DATE THE OFFENSE WAS COMMITTED;
- (C) THE NATURE OF THE POSITION HELD OR SOUGHT BY THE PERSON; AND
- (D) ANY OTHER RELEVANT INFORMATION.

(III) THE DECISION OF THE SCHOOL DISTRICT SHALL BE FINAL.

(7) For purposes of this section, a person is deemed to be convicted of

committing a felony or misdemeanor AS DESCRIBED IN THIS SECTION if ~~such~~ THE person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act which, if committed within this state, would be a felony or misdemeanor.

(8) For purposes of this section:

(a) "Convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, A GUILTY PLEA ACCEPTED BY A COURT, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(a.5) "NONLICENSED" MEANS A PERSON DOES NOT HOLD, OR A POSITION OF EMPLOYMENT DOES NOT REQUIRE, A LICENSE ISSUED PURSUANT TO ARTICLE 60.5 OF THIS TITLE.

(b) "Position of employment" means any job or position in which any person may be engaged in the service of a school district for salary or hourly wages, whether full time or part time and whether temporary or permanent.

(12) NOTHING IN THIS SECTION SHALL CREATE FOR A PERSON A PROPERTY RIGHT IN OR ENTITLEMENT TO EMPLOYMENT OR CONTINUED EMPLOYMENT WITH A SCHOOL DISTRICT OR IMPAIR A SCHOOL DISTRICT'S RIGHT TO TERMINATE EMPLOYMENT FOR A NONDISCRIMINATORY REASON.

SECTION 5. 22-60.5-103 (6) (b), Colorado Revised Statutes, is amended to read:

22-60.5-103. Applicants - licenses - authorizations - submittal of form and fingerprints - failure to comply constitutes grounds for denial. (6) (b) The department of education shall forward fingerprints submitted pursuant to this subsection (6) to the Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation, to determine whether the educator has a criminal history. In addition, the department of education may use the records of the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., or any other source available, including obtaining records from any law enforcement agency and juvenile delinquent records pursuant to section 19-1-304, C.R.S., to ascertain whether the educator has been convicted of an offense described in section 22-60.5-107 (2), ~~or~~ (2.5), OR (2.6).

SECTION 6. 22-60.5-107 (2) (d), (2) (f), (2.5) (a) (I) (D), (2.5) (b), (3), and (8), Colorado Revised Statutes, are amended, and the said 22-60.5-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization. (2) Any license, certificate, endorsement, or authorization may be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section:

(d) When the applicant or holder is found guilty of a felony, other than a felony described in subsection (2.5) OR (2.6) of this section, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in subsection (2.5) OR (2.6) of this section, in this state or, under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in subsection (2.5) OR (2.6) of this section, when the commission of said felony, in the judgment of the state board of education, renders the applicant or holder unfit to perform the services authorized by his or her license, certificate, endorsement, or authorization;

(f) When the applicant or holder has forfeited any bail, bond, or other security deposited to secure the appearance by the applicant or holder who is charged with having committed a felony or misdemeanor, has paid a fine, has entered a plea of nolo contendere, or has received a deferred or suspended sentence imposed by the court for any offense described in subparagraph (I) or (II) of paragraph (a) of subsection (2.5) of this section OR IN SUBSECTION (2.6) OF THIS SECTION.

(2.5) (a) A license, certificate, endorsement, or authorization shall be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section to the contrary, in the following circumstances:

(I) When the applicant or holder is convicted of one of the following offenses:

(D) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2.5), a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(b) For purposes of this subsection (2.5), "convicted" or "conviction" means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea OR A PLEA OF NOLO CONTENDERE by a court.

(2.6) (a) IN ADDITION TO THE OFFENSES DESCRIBED IN SUBSECTION (2.5) OF THIS SECTION, THE STATE BOARD OF EDUCATION SHALL DENY, ANNUL, SUSPEND, OR REVOKE A LICENSE, CERTIFICATE, ENDORSEMENT, OR AUTHORIZATION IF THE APPLICANT FOR OR HOLDER OF THE LICENSE, CERTIFICATE, ENDORSEMENT, OR AUTHORIZATION IS CONVICTED OF A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE 18 OF TITLE 18, C.R.S., COMMITTED ON OR AFTER AUGUST 25, 2012. THE REQUIREMENT THAT THE STATE BOARD OF EDUCATION DENY, ANNUL, SUSPEND, OR REVOKE A LICENSE, CERTIFICATE, ENDORSEMENT, OR AUTHORIZATION SHALL ONLY APPLY FOR A PERIOD OF FIVE YEARS FOLLOWING THE DATE THE OFFENSE WAS COMMITTED.

(b) NOTHING IN THIS SUBSECTION (2.6) SHALL LIMIT THE AUTHORITY OF THE STATE BOARD OF EDUCATION TO DENY, ANNUL, SUSPEND, OR REVOKE A LICENSE, CERTIFICATE, ENDORSEMENT, OR AUTHORIZATION IF THE APPLICANT OR HOLDER IS CONVICTED OF A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE 18 OF TITLE 18, C.R.S., COMMITTED PRIOR TO AUGUST 25, 2012.

(c) FOR PURPOSES OF THIS SUBSECTION (2.6), "CONVICTED" OR "CONVICTION"

MEANS A CONVICTION BY A JURY VERDICT OR BY ENTRY OF A VERDICT OR ACCEPTANCE OF A GUILTY PLEA OR A PLEA OF NOLO CONTENDERE BY A COURT.

(3) A certified copy of the judgment of a court of competent jurisdiction of a conviction, the acceptance of a guilty plea, a plea of nolo contendere, or a deferred sentence shall be conclusive evidence for the purposes of paragraphs (b) and (c) of subsection (2) of this section. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea shall be conclusive evidence for the purposes of ~~subsection~~ SUBSECTIONS (2.5) AND (2.6) of this section. Upon receipt of a certified copy of the judgment, the department of education may take immediate action to deny, annul, or suspend any license, certificate, endorsement, or authorization without a hearing, notwithstanding the provisions of section 22-60.5-108. The department of education may revoke a suspended license based on a violation of paragraph (b) or (c) of subsection (2) of this section and shall revoke a suspended license based on a violation of subsection (2.5) OR (2.6) of this section without a hearing and without any further action, after the exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed, and upon the entry of a final judgment.

(8) When an applicant's or holder's license is denied, annulled, suspended, or revoked pursuant to the provisions of subsection (2.5) OR (2.6) of this section, the department of education shall post the name of the person and basis for the denial, annulment, suspension, or revocation on its web site.

SECTION 7. 22-60.5-107 (2.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization. (2.5) (c) THE GROUNDS FOR MANDATORY DENIAL, ANNULMENT, SUSPENSION, OR REVOCATION OF A LICENSE, CERTIFICATE, ENDORSEMENT, OR AUTHORIZATION PURSUANT TO SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2.5) SHALL ONLY APPLY FOR A PERIOD OF FIVE YEARS FOLLOWING THE DATE THE OFFENSE WAS COMMITTED, PROVIDED THE APPLICANT OR HOLDER HAS SUCCESSFULLY COMPLETED ANY DOMESTIC VIOLENCE TREATMENT REQUIRED BY THE COURT.

SECTION 8. 22-63-302 (3), Colorado Revised Statutes, is amended to read:

22-63-302. Procedure for dismissal - judicial review. (3) If a teacher objects to the grounds given for the dismissal, the teacher may file with the chief administrative officer a written notice of objection and a request for a hearing. Such written notice shall be filed within five working days after receipt by the teacher of the notice of dismissal. If the teacher fails to file the written notice within said time, such failure shall be deemed to be a waiver of the right to a hearing and the dismissal shall be final; except that the board of education may grant a hearing upon a determination that the failure to file written notice for a hearing was due to good cause. If the teacher files a written notice of objection, the teacher shall continue to receive regular compensation from the time the board received the dismissal recommendation from the chief administrative officer pursuant to subsection (2) of this section until the board acts on the hearing officer's recommendation pursuant

to subsection (9) of this section, but in no event beyond one hundred days; except that the teacher shall not receive regular compensation upon being charged criminally with an offense for which a license, certificate, endorsement, or authorization is required to be denied, annulled, suspended, or revoked due to a conviction, pursuant to section 22-60.5-107 (2.5) OR (2.6). If the final disposition of the case does not result in a conviction and the teacher has not been dismissed pursuant to the provisions of this section, the board shall reinstate the teacher, effective as of the date of the final disposition of the case. Within ten days after the reinstatement, the board shall provide the teacher with back pay and lost benefits and shall restore lost service credit.

SECTION 9. 24-5-101 (1) (b) (IV), Colorado Revised Statutes, is amended to read:

24-5-101. Effect of criminal conviction on employment rights. (1) (b) This subsection (1) shall not apply to:

(IV) The licensure or authorization of educators prohibited pursuant to section 22-60.5-107 (2), ~~or~~ (2.5), OR (2.6), C.R.S.;

SECTION 10. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the educator licensure cash fund created in section 22-60.5-112 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of education, management and administration, for allocation to the office of professional services, for the fiscal year beginning July 1, 2011, the sum of eighty-three thousand three hundred eighty-three dollars (\$83,383) cash funds and 0.9 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2011, the sum of eleven thousand five dollars (\$11,005), or so much thereof as may be necessary, for the provision of legal services to the department of education related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of education out of the appropriation made in subsection (1) of this section.

SECTION 11. 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 10, 2011, if adjournment sine die is on May 11, 2011); 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 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 27, 2011