

HB1295\_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Education.

HB21-1295 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 22-30.5-108, **amend**  
4 (2), (3) introductory portion, (3)(a), (3)(c), and (3)(d) as follows:

5 **22-30.5-108. Appeal - standard of review - procedures.**

6 (2) (a) A charter applicant or any other person who wishes to appeal a  
7 decision of a local board of education concerning the denial of a charter  
8 application or the nonrenewal or revocation of a charter or the unilateral  
9 imposition of conditions on a charter applicant or a charter school, shall  
10 provide the state board and the local board of education with a notice of  
11 appeal or of facilitation within thirty days after the local board's decision  
12 OF THE LOCAL BOARD OF EDUCATION. The person bringing the appeal shall  
13 limit the grounds of the appeal to the grounds for the denial of a charter  
14 application or the nonrenewal or revocation of a charter, or the unilateral  
15 imposition of conditions on a charter applicant or charter school,  
16 whichever is being appealed, specified by the local board of education.

17 (b) (I) IN AN APPEAL CONCERNING THE DECISION OF A LOCAL  
18 BOARD OF EDUCATION TO DENY A CHARTER APPLICATION, THERE IS A  
19 REBUTTABLE PRESUMPTION THAT THE DECISION OF THE LOCAL BOARD OF  
20 EDUCATION WAS IN THE BEST INTERESTS OF THE PUPILS, SCHOOL DISTRICT,  
21 OR COMMUNITY SO LONG AS THE DECISION WAS BASED ON ONE OR MORE  
22 OF THE FOLLOWING CONSIDERATIONS:

23 (A) THE LIKELIHOOD OF A CONFLICT WITH THE LOCAL BOARD OF  
24 EDUCATION'S EXISTING LONG-TERM PLANS FOR THE SCHOOL DISTRICT; OR

25 (B) STUDENT ENROLLMENT AMONG THE SCHOOLS OF THE SCHOOL  
26 DISTRICT.

27 (II) THE NOTICE OF APPEAL SUBMITTED PURSUANT TO SUBSECTION  
28 (2)(a) OF THIS SECTION CONCERNING THE DENIAL OF A CHARTER  
29 APPLICATION MUST INCLUDE A BRIEF STATEMENT OF THE REASONS THE  
30 APPEALING PERSON CONTENDS THE LOCAL BOARD OF EDUCATION'S  
31 DECISION WAS NOT BASED ON THE CONSIDERATIONS SPECIFIED IN  
32 SUBSECTION (2)(b)(I) OF THIS SECTION. THE PERSON BRINGING THE APPEAL  
33 MAY REBUT THE PRESUMPTION DESCRIBED IN SUBSECTION (2)(b)(I) OF  
34 THIS SECTION BY DEMONSTRATING BY A PREPONDERANCE OF THE  
35 EVIDENCE THAT THE DECISION OF THE LOCAL BOARD OF EDUCATION WAS  
36 NOT BASED ON THE CONSIDERATIONS SPECIFIED IN SUBSECTION (2)(b)(I)  
37 OF THIS SECTION.

38 (III) UPON RECEIVING THE NOTICE OF APPEAL, THE LOCAL BOARD  
39 OF EDUCATION SHALL SUBMIT TO THE STATE BOARD AND THE APPEALING  
40 PERSON, IN WRITING, THE LOCAL BOARD OF EDUCATION'S FINDINGS WITH  
41 REGARD TO THE CONSIDERATIONS DESCRIBED IN SUBSECTION (2)(b)(I) OF

1 THIS SECTION ON WHICH THE LOCAL BOARD OF EDUCATION BASED ITS  
2 DENIAL OF THE CHARTER APPLICATION AND EVIDENCE TO SUPPORT THE  
3 FINDINGS.

4 (c) The notice ~~shall~~ OF APPEAL SUBMITTED PURSUANT TO  
5 SUBSECTION (2)(a) OF THIS SECTION CONCERNING THE NONRENEWAL OR  
6 REVOCATION OF A CHARTER OR THE UNILATERAL IMPOSITION OF  
7 CONDITIONS ON A CHARTER APPLICANT OR A CHARTER SCHOOL MUST  
8 include a brief statement of the reasons the appealing person contends the  
9 local board of education's ~~denial of a charter application or nonrenewal~~  
10 ~~or revocation of a charter, or imposition of conditions on a charter~~  
11 ~~applicant or charter school~~ DECISION was in error.

12 (3) ~~If the notice of appeal, or the motion to review by the state~~  
13 ~~board, relates to a local board's decision to deny a charter application or~~  
14 ~~to refuse to renew or to revoke a charter or to a local board's unilateral~~  
15 ~~imposition of conditions that are unacceptable to the charter applicant or~~  
16 ~~the charter school, The appeal and review process shall be~~ IS as follows:

17 (a) (I) Within sixty days after ~~receipt of~~ THE STATE BOARD  
18 RECEIVES the notice of appeal or ~~the making of a motion to review by the~~  
19 ~~state board~~ MOVES FOR review, and after reasonable public notice, the  
20 state board, AT A PUBLIC HEARING, shall review the decision of the local  
21 board of education and make its findings.

22 (II) IN AN APPEAL CONCERNING THE DECISION OF A LOCAL BOARD  
23 OF EDUCATION TO DENY A CHARTER APPLICATION, IF THE STATE BOARD  
24 FINDS THAT THE EVIDENCE SUBMITTED BY THE PERSON BRINGING THE  
25 APPEAL DOES NOT OUTWEIGH THE EVIDENCE SUBMITTED BY THE LOCAL  
26 BOARD OF EDUCATION BY A PREPONDERANCE, THE STATE BOARD SHALL  
27 FIND THAT THE PRESUMPTION DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS  
28 SECTION IS NOT REBUTTED, AND THE STATE BOARD SHALL AFFIRM THE  
29 DENIAL OF THE CHARTER APPLICATION. IF THE STATE BOARD FINDS THAT  
30 THE EVIDENCE SUBMITTED BY THE PERSON BRINGING THE APPEAL  
31 OUTWEIGHS THE EVIDENCE SUBMITTED BY THE LOCAL BOARD OF  
32 EDUCATION BY A PREPONDERANCE, THE STATE BOARD SHALL FIND THAT  
33 THE PRESUMPTION DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION  
34 IS REBUTTED, AND THE STATE BOARD SHALL REMAND THE DECISION TO  
35 THE LOCAL BOARD OF EDUCATION WITH WRITTEN INSTRUCTIONS TO  
36 RECONSIDER THE DECISION. THE INSTRUCTIONS ON REMAND MUST  
37 INCLUDE SPECIFIC RECOMMENDATIONS CONCERNING THE MATTERS  
38 REQUIRING RECONSIDERATION.

39 (III) IN AN APPEAL CONCERNING THE NONRENEWAL OR  
40 REVOCATION OF A CHARTER OR THE UNILATERAL IMPOSITION OF  
41 CONDITIONS ON A CHARTER APPLICANT OR A CHARTER SCHOOL, if the state  
42 board finds that the local ~~board's~~ BOARD OF EDUCATION'S decision was  
43 contrary to the best interests of the pupils, school district, or community,

1 the state board shall remand ~~such~~ THE decision to the local board of  
2 education with written instructions ~~for reconsideration thereof. Said~~  
3 ~~instructions shall~~ TO RECONSIDER THE DECISION. THE INSTRUCTIONS ON  
4 REMAND MUST include specific recommendations concerning the matters  
5 requiring reconsideration.

6 (c) Following the remand, if the local board of education's final  
7 decision is still to deny a charter application or to unilaterally impose the  
8 condition on a charter applicant or if the local board of education's final  
9 decision is still to refuse to renew or to revoke a charter or to unilaterally  
10 impose conditions unacceptable to the charter school, a second notice of  
11 appeal may be filed with the state board within thirty days following ~~such~~  
12 THE final decision. IN A SECOND APPEAL CONCERNING THE DENIAL OF A  
13 CHARTER APPLICATION, THE PERSON BRINGING THE APPEAL AND THE  
14 LOCAL BOARD OF EDUCATION MAY SUBMIT ADDITIONAL EVIDENCE AS  
15 DESCRIBED IN SUBSECTIONS (2)(b)(II) AND (2)(b)(III) OF THIS SECTION FOR  
16 THE STATE BOARD'S CONSIDERATION IN THE SECOND APPEAL.

17 (d) (I) Within thirty days ~~following receipt of~~ AFTER THE STATE  
18 BOARD RECEIVES the second notice of appeal or ~~the making of a motion~~  
19 ~~for a second review by the state board~~ MOVES FOR A SECOND REVIEW, and  
20 after reasonable public notice, the state board, at a public hearing, shall  
21 ~~determine whether~~ REVIEW THE DECISION OF THE LOCAL BOARD OF  
22 EDUCATION.

23 (II) IN AN APPEAL CONCERNING THE DECISION OF A LOCAL BOARD  
24 OF EDUCATION TO DENY A CHARTER APPLICATION, IF THE STATE BOARD  
25 FINDS THAT THE EVIDENCE SUBMITTED FOR THE FIRST AND SECOND  
26 APPEALS BY THE PERSON BRINGING THE APPEALS DOES NOT OUTWEIGH THE  
27 EVIDENCE SUBMITTED BY THE LOCAL BOARD OF EDUCATION FOR THE FIRST  
28 AND SECOND APPEALS BY A PREPONDERANCE, THE STATE BOARD SHALL  
29 FIND THAT THE PRESUMPTION DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS  
30 SECTION IS NOT REBUTTED, AND THE STATE BOARD SHALL AFFIRM THE  
31 DENIAL OF THE CHARTER APPLICATION. IF THE STATE BOARD FINDS THAT  
32 THE EVIDENCE SUBMITTED FOR THE FIRST AND SECOND APPEALS BY THE  
33 PERSON BRINGING THE APPEALS OUTWEIGHS THE EVIDENCE SUBMITTED  
34 FOR THE FIRST AND SECOND APPEALS BY THE LOCAL BOARD OF EDUCATION  
35 BY A PREPONDERANCE, THE STATE BOARD SHALL FIND THAT THE  
36 PRESUMPTION DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION IS  
37 REBUTTED, AND THE STATE BOARD SHALL REMAND THE DECISION TO THE  
38 LOCAL BOARD OF EDUCATION WITH WRITTEN INSTRUCTIONS TO APPROVE  
39 THE CHARTER APPLICATION. THE DECISION OF THE STATE BOARD IS FINAL  
40 AND NOT SUBJECT TO APPEAL.

41 (III) IN AN APPEAL CONCERNING THE NONRENEWAL OR  
42 REVOCATION OF A CHARTER OR THE UNILATERAL IMPOSITION OF  
43 CONDITIONS ON A CHARTER APPLICANT OR A CHARTER SCHOOL, IF THE

1 STATE BOARD FINDS THAT the final decision of the local board of  
2 education was contrary to the best interests of the pupils, school district,  
3 or community, ~~If such a finding is made, the state board~~ IT shall remand  
4 ~~such~~ THE final decision to the local board OF EDUCATION with instructions  
5 ~~to approve the charter application, or to renew or reinstate the charter or~~  
6 to approve or disapprove the conditions imposed on the charter applicant  
7 or the charter school. The decision of the state board ~~shall be~~ IS final and  
8 not subject to appeal.

9 **SECTION 2. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly; except  
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
13 of the state constitution against this act or an item, section, or part of this  
14 act within such period, then the act, item, section, or part will not take  
15 effect unless approved by the people at the general election to be held in  
16 November 2022 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor."

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