

Initiative 2023-24 #266
Charter School Institute Authority

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Be it enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-30.5.-501 **amend** (2) as follows:

22-30.5.-501. Legislative declaration.

(2) The intent of the ~~general assembly~~ PEOPLE OF COLORADO in establishing the state charter school institute pursuant to this part 5 is to:

(a) Provide an alternative mode of authorizing charter schools as a means to assist school districts in utilizing best practices for chartering schools and to approve and oversee charter schools in school districts not desiring to do so themselves; and

(b) ~~Preserve the authority of a school district to authorize charter schools, at the school district's option.~~ PROVIDE FOR AN INDEPENDENT BOARD TO PROVIDE ADDITIONAL QUALITY EDUCATION OPTIONS FOR COLORADO FAMILIES THROUGH THE AUTHORIZATION OF CHARTER SCHOOLS.

SECTION 2. In Colorado Revised Statutes, 22-30.5.-504 **amend** (2); and **repeal** (4), (5), (6), (7), (7.5), (8), (9) and (10) as follows:

22-30.5-504. Institute chartering authority - institute charter schools - exclusive authority - retention - recovery - revocation - repeal

(2) ~~An institute charter school applicant may submit an application to the institute only if the school district in which the institute charter school is to be located has not retained exclusive authority to authorize charter schools as provided in subsection (5) of this section. If a school district has not retained exclusive authority to authorize charter schools as provided in subsection (5) of this section, the~~ THE school district and the institute shall have concurrent authority to authorize charter schools and institute charter schools, respectively, to be located within the geographic boundaries of the school district. The school district shall monitor and oversee all charter schools authorized by the school district as provided in part 1 of this article. The institute shall monitor and oversee all institute charter schools authorized by the institute as provided in this part 5. A CHARTER SCHOOL, OR PROPOSED CHARTER SCHOOL, MAY APPLY DIRECTLY TO THE INSTITUTE FOR APPROVAL.

~~(4)(a) A local board of education may seek to retain or recover exclusive authority to authorize charter schools within the geographic boundaries of the school district by presenting to the state board, on or before March 1 of the fiscal year prior to that for which the exclusive authority is to apply, a written resolution adopted by the local board of education indicating the intent to retain or recover exclusive authority to authorize charter schools. The written resolution shall be accompanied by a written description of those portions of subsection (5) of this section that the local board of education intends to demonstrate. The local board of education shall provide a complete copy of the resolution, including the description, to each charter school authorized by the local board on or before the date the local board submits the resolution to the state board. The state board shall determine within sixty days after receiving the resolution whether to grant the local board of education exclusive authority. If the state board denies the local board exclusive~~

~~authority to authorize charter schools within the geographic boundaries of the school district, it shall provide to the local board of education a written explanation of the basis for the denial.~~

~~(b) A party may challenge the grant of exclusive authority made by the state board pursuant to subsection (5) of this section by filing with the state board a notice of challenge within thirty days after the state board grants exclusive authority. The notice shall be accompanied by a specific written description, with supporting documentation, of the basis for the challenge. The challenging party, at the time of filing notice with the state board, shall provide a copy of the notice of challenge, with the written description of the basis and supporting documentation, to the local board of education that has been granted exclusive authority. The state board shall permit the local board the opportunity to appear at a public hearing and respond to the challenge and shall permit the challenger the opportunity at the public hearing to rebut any arguments made by the local board. If the local board of education intends to respond to the challenge, it shall submit a copy of its response in writing, with supporting documentation, to the challenging party and the state board at least fifteen days prior to the public hearing. The state board shall make a determination upon the challenge within sixty days after receipt of the notice of challenge. In announcing its determination, the state board shall provide a written explanation of the basis for its decision to either grant or deny to the local board exclusive authority to authorize charter schools within the geographic boundaries of the school district.~~

~~(c) If a local board of education recovers exclusive authority pursuant to this section to authorize charter schools within the geographic boundaries of the school district, any institute charter schools authorized within the geographic boundaries of the school district prior to the date on which the local board of education recovered exclusive authority shall continue to be authorized by and accountable to the institute; except that an institute charter school that is converted to a district charter school pursuant to subsection (10) of this section shall be accountable to the local board of education.~~

~~(d) Each local board of education that has been granted, prior to or on or after April 17, 2008, exclusive authority to charter schools within the geographic boundaries of the school district shall retain exclusive authority until the local board of education voluntarily relinquishes the exclusive authority or the state board of education revokes the exclusive authority pursuant to the provisions of subsection (7.5) of this section. A local board of education that voluntarily relinquishes exclusive authority may regain exclusive authority by applying pursuant to the provisions of this subsection (4).~~

~~(5)(a) The state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the state board determines, after adequate notice and in a public hearing and after receiving input from any charter schools authorized by the local board of education, that the local board can show a recent pattern of providing fair and equitable treatment to its charter schools through the local board's demonstration of:~~

~~(I) Full compliance with the provisions of the "Charter Schools Act", part 1 of this article, which includes, at a minimum:~~

~~(A) Compliance with full and accurate accounting practices and charges for central administrative overhead costs;~~

~~(B) Compliance with sections 22-30.5-112 and 22-30.5-112.1, which permit a charter school to purchase, at its discretion, certain services or a combination of services;~~

~~(C) The absence of a school district moratorium regarding charter schools or the absence of any district-wide charter school enrollment limits; and~~

~~(D) Compliance with valid orders of the state board; and~~

~~(H) Any combination of the following:~~

~~(A) The distribution to charter schools authorized by the local board of a pro-rata share of mill levy overrides, except for any mill levied for a particular purpose that by its express terms is intended to benefit a grade, a program, or a school and, as a result, is not available to be offered to any charter school that did not participate in the mill levy proceeds;~~

~~(B) The provision of assistance to charter schools to meet their facilities needs, by including those needs in local bond issues or otherwise providing available land and facilities that are comparable to those provided to other public school students in the same grade levels within the school district;~~

~~(C) The distribution to charter schools authorized by the local board of a pro-rata share of federal and state grants received by the school district, except for any grant received for a particular purpose that by its express terms is intended to benefit a student population not able to be served by, or a program not able to be offered at, a charter school which did not receive a proportionate share of such grant proceeds;~~

~~(D) The provision of adequate staff and other resources to serve charter schools authorized by the local board, which services are provided by the school district at a cost to the charter schools that does not exceed their actual cost to the school district, or, in the case of federally required educational services, the amount specified in section 22-30.5-112(2)(a.8);~~

~~(E) The lack of a policy or practice of imposing individual charter school enrollment limits, except as otherwise provided in article 36 of this title; or~~

~~(F) The provision of an adequate number of educational choice programs to serve students exercising their rights to transfer pursuant to the "No Child Left Behind Act of 2001", Public Law 107-110, and a history of charter school approval that encourages programs that serve at-risk student populations.~~

~~(b) Notwithstanding any other provision of this subsection (5) to the contrary, the state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the local board certifies that:~~

~~(I) The total pupil enrollment of the school district is less than three thousand pupils.~~

~~(II) (Deleted by amendment, L. 2008, p. 487, § 2, effective April 17, 2008.)~~

~~(c) Notwithstanding any other provision of this subsection (5), the state board shall not deny exclusive authority to a local board of education based upon a school district moratorium regarding charter schools that was in existence prior to July 1, 2004, but was repealed on or before October 1, 2004.~~

~~(d) If the state board denies the exclusive authority of a local board of education to authorize charter schools within the geographic boundaries of the school district, the local board may reapply to retain or recover exclusive authority as provided in subsection (4) of this section as soon as the local board determines it has resolved the issue that was the basis for the denial.~~

~~(6) For local boards of education that have no discernable history of considering charter school applications or authorizing charter schools, the state board shall grant exclusive authority if the local board demonstrates its compliance with the provisions of sub-subparagraphs (C) and (D) of subparagraph (I) of paragraph (a) of subsection (5) of this section and presents to the state board a plan to implement a combination of the authorizing practices described in paragraph (a) of subsection (5) of this section.~~

~~(7) A grant of exclusive authority by the state board shall continue so long as a local board of education continues to comply with the provisions of subsection (5) of this section, and the local board need not reapply; except that a local board of education that retains exclusive authority pursuant to paragraph (b) of subsection (5) of this section shall reapply for exclusive authority if the criteria specified in said paragraph (b) no longer apply to the school district.~~

~~(7.5)(a) A charter school, a charter school applicant, or an organization that represents charter schools may request revocation of a local board of education's exclusive authority to authorize charter schools within the geographic boundaries of the school district by filing a request for revocation with the state board. A charter school may request revocation of the exclusive authority only of its chartering local board. A charter applicant may request revocation of the exclusive authority only of a local board of education to which it may apply for a charter.~~

~~(b) A charter school, a charter school applicant, or an organization that represents charter schools may request revocation of a local board of education's exclusive authority only on the grounds that the local board, since the date that the local board received exclusive authority, has demonstrated a pattern of failing to comply with one or more of the provisions of paragraph (a) of subsection (5) of this section. A charter school, a charter school applicant, or an organization~~

that represents charter schools may not request revocation of a local board of education's exclusive authority solely on the basis of:

(I) The local board's refusal of a charter application; or

(II) An action by the local board that a charter school or a charter school applicant may appeal to the state board pursuant to section 22-30.5-108, unless the action would otherwise constitute grounds for denial or revocation of exclusive authority.

(c) To request revocation of a local board of education's exclusive authority, a charter school, a charter school applicant, or an organization that represents charter schools shall file a notice of request for revocation with the state board, accompanied by a specific written description, with supporting documentation, of the basis for the request. The requesting party, at the time of filing the notice with the state board, shall provide a copy of the notice of request for revocation and the basis for the request, with the supporting documentation, to the affected local board of education. The state board shall permit the local board the opportunity to appear at a public hearing and respond in writing to the request for revocation and shall permit the requesting party the opportunity at the public hearing to rebut any arguments made by the local board. If the local board intends to respond to the request for revocation, it shall submit a copy of its response in writing, with supporting documentation, to the requesting party and the state board at least fifteen days prior to the public hearing. The state board shall determine whether to grant or deny the request for revocation, based on the criteria for granting exclusive authority specified in subsections (5) and (6) of this section, within sixty days after receiving the notice. If the state board revokes the local board of education's exclusive authority to authorize charter schools within the geographic boundaries of the school district, it shall provide a written explanation of the basis for the revocation.

(d) If the state board revokes a local board of education's exclusive authority, the local board may apply to recover the grant of exclusive authority as provided in subsection (4) of this section as soon as the local board determines it has resolved the issue that was the basis for the revocation. The state board shall consider the local board of education's application and either grant or deny the local board exclusive authority as provided in subsection (5) of this section.

(8) Notwithstanding any other provision of this section to the contrary, a local board of education may permit the establishment of one or more institute charter schools within the geographic boundaries of the school district by adopting a favorable resolution and submitting the resolution to the state board. An institute charter school that is established with permission granted in a resolution adopted by the local board of the school district in which the institute charter school is located continues to be authorized by and accountable to the institute regardless of later actions by the local board unless the institute charter school voluntarily converts to a district charter school as provided in subsection (10) of this section.

(9) (a) Notwithstanding any other provision of this section to the contrary, the state board shall grant to a local board of education exclusive authority to authorize charter schools within the

~~geographic boundaries of the school district if the school district annually certifies to the state board that the total number of students enrolled in charter schools authorized by the school district, or the maximum number of students allowed to be enrolled pursuant to charter school contracts entered into by the school district, whichever is greater, divided by the district pupil enrollment, as defined in section 22-54-103, for that budget year, reflected as a percentage, exceeds by more than three percentage points the percentage of students enrolled in charter schools statewide.~~

~~(b) A school district that retains exclusive authority to authorize charter schools pursuant to paragraph (a) of this subsection (9) shall satisfy the requirements of paragraph (a) of subsection (5) of this section.~~

~~(10)(a) An institute charter school that is located within the geographic boundaries of a school district that recovers exclusive authority to authorize charter schools, as provided in subsection (4) of this section, or that permitted the establishment of the institute charter school within its geographic boundaries, as provided in subsection (8) of this section, may apply to the board of education of the school district in which it is located to convert to a district charter school. To convert to a district charter school, the institute charter school shall submit an application to the local board of education as if it were applying for a new charter in accordance with the provisions of part 1 of this article.~~

~~(b) An application to convert an existing institute charter school to a district charter school shall include evidence that an adequate number of parents, teachers, or pupils, or any combination thereof, supports the conversion of the institute charter school to a district charter school.~~

~~(c) A local board of education's approval of an application from an existing institute charter school submitted pursuant to this subsection (10) shall not relieve the institute charter school of any preexisting contractual obligations or relationships, including obligations of the institute charter school to the institute; except that the institute charter school shall no longer be subject to the oversight and control of the institute. The transfer of oversight of an institute charter school from the institute to a school district shall not be deemed a dissolution or other event that empowers or obligates the institute to wind down the institute charter school's affairs or to dispose of the institute charter school's assets.~~

~~(d)(I) If an institute charter school converts to a district charter school, the authorizing school district shall calculate the converted school's funding, including at-risk supplemental aid, as it was calculated before the conversion using the formulas specified in section 22-30.5-513; except that this paragraph (d) does not apply if the converted school is authorized by a small rural school district, as described in section 22-54-108 (3)(b)(IV).~~

~~(II) Repealed.~~

SECTION 3. In Colorado Revised Statutes, **amend** 22-30.5-505(2)(a) and (b) as follows:

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

(2)(a) The institute board consists of nine members., ~~no more than five of whom are members of the same political party. Seven of the members shall be appointed by the governor, with the consent of the senate, and two of the members shall be appointed by the commissioner. In making the appointments, the governor and the commissioner shall ensure the institute board~~
ONE MEMBER EACH SHALL BE APPOINTED BY THE MAJORITY AND MINORITY LEADERS OF BOTH THE HOUSE OF REPRESENTATIVES AND SENATE; A CHARTER SCHOOL BOARD PRESIDENT SHALL BE APPOINTED BY THE GOVERNOR; AN EXECUTIVE FROM A NONPROFIT WHO ADVOCATES FOR SCHOOL CHOICE SHALL BE APPOINTED BY THE GOVERNOR; THE PRESIDENT OF THE COLORADO CHARTER SCHOOL LEAGUE SHALL BE APPOINTED TO THE BOARD; AND TWO MEMBERS THAT HAVE EXPERIENCE AS A PARENT OF A STUDENT WHO IS, OR HAS BEEN, ENROLLED IN AN INSTITUTE CHARTER SCHOOL FOR AT LEAST THREE YEARS SHALL BE APPOINTED BY THE BOARD. ~~reflects the geographic diversity of the state and shall ensure that at least one member of the institute board is a parent of a student who is, or who has been, enrolled in an institute charter school.~~ Members appointed to the institute board shall have experience in at least one of the following areas:

- (I) Experience as a charter school board member or founder of a charter school;
- (II) Experience as a public school administrator with experience working with charter schools;
- (III) Financial management expertise;
- (IV) Detailed knowledge of charter school law;
- ~~(V) Other board or public service experience;~~
- ~~(VI) Experience as a public CHARTER school teacher; AND~~
- ~~(VII) Online education and online curriculum development expertise;~~
- ~~(VIII) School district special education expertise.; and~~
- ~~(IX) Curriculum and assessment expertise.~~

(b) The members of the institute board shall serve terms of three years; except that the terms shall be staggered so that no more than three members' terms expire in the same year. A member shall not serve more than six consecutive years. THE MEMBERSHIP SHALL BE APPOINTED WITHIN THREE YEARS OF THE EFFECTIVE DATE OF THIS SUBSECTION.

SECTION 4. Effective Date.

This act takes effect on the date of the proclamation of the Governor announcing the approval, by the registered electors of the state, of the proposed initiative.