

PART 1 - CHARTER SCHOOLS ACT

22-30.5-101. Short title.

Statute text

This part 1 shall be known and may be cited as the "Charter Schools Act".

History

Source: L. 93: Entire article added, p. 1051, § 1, effective June 3. **L. 96:** Entire section amended, p. 667, § 3, effective May 2.

ANNOTATION

Charter Schools Act does not violate the equal protection clause of the United States Constitution. Because the act is facially neutral and does not implicate a fundamental right, the act must be reviewed under a rational relationship test. Colorado has a legitimate governmental interest in encouraging innovation in education and the act is rationally related to such an interest. *Villanueva v. Carere*, 873 F. Supp. 434 (D. Colo. 1994), *aff'd*, 85 F.3d 481 (10th Cir. 1996).

Charter schools established pursuant to this act are public entities and, thus, absent a Governmental Immunity Act immunity exception, entitled to immunity from liability in claims that lie in tort or could lie in tort. *King v. U.S.*, 53 F. Supp.2d 1056 (D. Colo. 1999).

22-30.5-102. Legislative declaration.

Statute text

(1) The general assembly hereby finds and declares that:

(a) It is the obligation of all Coloradans to provide all children with schools that reflect high expectations and create conditions in all schools where these expectations can be met;

(b) Education reform is in the best interests of the state in order to strengthen the performance of elementary and secondary public school pupils, that the best education decisions are made by those who know the students best and who are responsible for implementing the decisions, and, therefore, that educators and parents have a right and a responsibility to participate in the education institutions which serve them;

(c) Different pupils learn differently and public school programs should be designed to fit the needs of individual pupils and that there are educators, citizens, and parents in Colorado who are willing and able to offer innovative programs, educational techniques, and environments but who lack a channel through which they can direct their innovative efforts.

(2) The general assembly further finds and declares that this part 1 is enacted for the following purposes:

(a) To improve pupil learning by creating schools with high, rigorous standards for pupil performance;

(b) To increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low-achieving;

(c) To encourage diverse approaches to learning and education and the use of different, proven, or innovative teaching methods;

- (d) To allow the development of different and innovative forms of measuring pupil learning and achievement;
- (e) To create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (f) To provide parents and pupils with expanded choices in the types of education opportunities that are available within the public school system;
- (g) To encourage parental and community involvement with public schools;
- (g.5) To address the formation of charter schools;
- (h) To hold charter schools accountable for meeting state board and school district content standards and to provide such schools with a method to change accountability systems.

(3) In authorizing charter schools, it is the intent of the general assembly to create a legitimate avenue for parents, teachers, and community members to take responsible risks and create new, innovative, and more flexible ways of educating all children within the public school system. The general assembly seeks to create an atmosphere in Colorado's public school system where research and development in developing different learning opportunities is actively pursued. As such, the provisions of this part 1 should be interpreted liberally to support the findings and goals of this section and to advance a renewed commitment by the state of Colorado to the mission, goals, and diversity of public education.

History

Source: L. 93: Entire article added, p. 1051, § 1, effective June 3. **L. 94:** (2)(g.5) added, p. 1378, § 1, effective May 25. **L. 96:** IP(2) and (3) amended, p. 668, § 4, effective May 2; (2)(c) amended, p. 752, § 1, effective May 22.

Annotations

Trial court did not err in dismissing a third-party claim to enforce the contract brought on behalf of the charter school because the intended beneficiaries of the charter school are the school children and a charter school cannot be a party and a third-party beneficiary at the same time. *Academy of Charter Schools v. Adams Cty. School Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), rev'd on other grounds, 32 P.3d 456 (Colo. 2001).

Applied in *Academy of Charter Schools v. Adams Cty. School Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), aff'd in part and rev'd in part on other grounds, 32 P.3d 456 (Colo. 2001).

22-30.5-103. Definitions.

Statute text

(1) For purposes of this part 1:

- (a) "At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.
- (b) "Local board of education" means the school district board of education.
- (b.5) "On-line pupil" means a child who receives educational services predominantly through an on-line program created pursuant to section 22-33-104.6.
- (c) "State board" means the state board of education.

History

Source: L. 93: Entire article added, p. 1052, § 1, effective June 3. **L. 96:** IP(1) amended, p. 668, § 5, effective

May 2. L. 2002: (1)(b.5) added, p. 1749, § 21, effective June 7.

22-30.5-104. Charter school - requirements - authority.

Statute text

(1) A charter school shall be a public, nonsectarian, nonreligious, non-home-based school which operates within a public school district.

(2) A charter school shall be a public school within the school district that grants its charter and shall be accountable to the school district's local board of education for purposes of ensuring compliance with applicable laws and charter provisions and the requirement of section 15 of article IX of the state constitution. A charter school cannot apply to, or be granted a charter by, a school district unless a majority of the charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto.

(3) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services. A charter school shall be subject to any court-ordered desegregation plan in effect for the school district. Enrollment must be open to any child who resides within the school district; except that no charter school shall be required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application.

(4) A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the local board of education. A charter school may organize as a nonprofit corporation pursuant to the "Colorado Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law.

(4.5) (a) In order to clarify the status of charter schools for purposes of tax-exempt financing, a charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the school district specifically assumes such obligations.

(b) Notwithstanding the provisions of section 22-30.5-110 (1) to the contrary, a charter school and the local board of education may agree to extend the length of the charter beyond five years for the purpose of enhancing the terms of any lease or financial obligation.

(5) Except as otherwise provided in sections 22-20-109, 22-32-115, and 22-54-109, a charter school shall not charge tuition.

(6) Pursuant to contract, a charter school may operate free from specified school district policies and state regulations. Pursuant to contract, a local board of education may waive locally imposed school district requirements, without seeking approval of the state board. The state board may waive state statutory requirements or rules promulgated by the state board; except that the state board may not waive any statute or rule relating to the assessments required to be administered pursuant to section 22-7-409 or necessary to prepare the school accountability reports pursuant to part 6 of article 7 of this title. Upon request of the charter applicant, the state board and the local board of education shall provide summaries of such regulations and policies to use in preparing a charter school application. The department of education shall prepare the summary of state regulations within existing appropriations. Any waiver of state or local school district regulations made pursuant to this subsection (6) shall be for the term of the charter for which the waiver is made; except that a waiver of state statutes or regulations by the state board shall be subject to review every two years and may be revoked if the waiver is deemed no longer necessary by the state board.

(7) (a) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, and personnel matters.

(b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, 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 to perform in order to carry out the educational program described in its charter. 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).

(c) In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

(8) A charter school shall be authorized to offer any educational program, including but not limited to an on-line program pursuant to section 22-33-104.6, that may be offered by a school district, unless expressly prohibited by its charter or by state law.

(9) All decisions regarding the planning, siting, and inspection of charter school facilities shall be made in accordance with section 22-32-124 and as specified by contract with the district.

History

Source: **L. 93:** Entire article added, p. 1053, § 1, effective June 3. **L. 94:** (5) amended, p. 812, § 24, effective April 27; (3), (5), and (6) amended, p. 1378, § 2, effective May 25. **L. 96:** (6) amended, p. 752, § 2, effective May 22. **L. 97:** (2) amended, p. 585, § 14, effective April 30; (4) amended, p. 400, § 1, effective August 6. **L. 99:** (7)(b) amended, p. 1256, § 5, effective June 2; (4.5) and (8) added, p. 1209, § 1, effective August 4. **L. 2000:** (6) amended, p. 349, § 4, effective April 10; (4) amended, p. 1855, § 55, effective August 2; (9) added, p. 519, § 1, effective August 2. **L. 2001:** (6) amended, p.1498, § 22, effective June 8. **L. 2002:** (2) and (8) amended, p. 1749, § 22, effective June 7.

Annotations

Editor's note: Amendments to subsection (5) in House Bill 94-1001 and Senate Bill 94-215 were harmonized.

Annotations

Cross references: For the legislative declaration contained in the 1999 act amending subsection (7)(b), see section 1 of chapter 302, Session Laws of Colorado 1999.

Annotations

The express grant of standing to charter schools to sue for enforcement of service contracts clarifies the power originally granted to charter schools in the Charter Schools Act. Because the charter contract between the parties encompasses contractual provisions related to the types of service contracts considered in this section, plaintiff had standing to bring those claims against the school district in the judicial system. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).*

Facilities operation and maintenance provisions entered into pursuant to subsection (7)(b) are judicially enforceable, unlike the governing policy provisions in a charter contract entered into according to §§ 22-30.5-105 and 22-30.5-106. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).*

The power to enter into contracts assumes the ability to enforce those contracts. In order to enforce a contract, one party must have some means of ensuring that the other party will obey its contractual duties. A legislative authorization to enter into contracts could be read as implying a complementary authorization to enforce those contracts. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).*

The general assembly intended that charter schools have always had standing to sue their school districts for the types of contractual provisions described in this section. The general assembly, when amending the

act, meant for the amendment to serve merely as a clarification, not as a substantive change of the law. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Applied in *Academy of Charter Schools v. Adams Cty. School Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

22-30.5-105. Charter schools - contract contents - regulations - repeal.

Statute text

(1) An approved charter application shall serve as the basis for a contract between the charter school and the local board of education.

(2) (a) The contract between the charter school and the local board of education shall reflect all agreements regarding the release of the charter school from school district policies.

(b) (I) Any contract between the charter school and the local board of education approved on or after July 1, 2001, but prior to July 1, 2010, shall include a statement specifying how the charter school intends to use the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 required by section 17 of article IX of the state constitution to raise student achievement.

(II) This paragraph (b) is repealed, effective July 1, 2011.

(c) Any contract between a charter school and a local board of education approved on or after July 1, 2002, shall specify:

(I) If the contract is not a renewal of an expiring contract, the manner in which the school district governed by the local board of education will support any start-up facility needs of the charter school;

(II) The manner in which the school district governed by the local board of education will support any long-term facility needs of the charter school; and

(III) The actions that the charter school must take in order to:

(A) Have its capital construction needs included as part of the next ballot question for approval of bonded indebtedness to be submitted by the local board of education of its chartering school district to the voters of the district; or

(B) Have the local board of education submit a ballot question for approval of a special mill levy to finance the capital construction needs of the charter school to the voters of the district pursuant to section 22-30.5-405.

(3) The contract between the charter school and the local board of education shall reflect all requests for release of the charter school from state statutes and regulations. Within ten days after the contract is approved by the local board of education, any request for release from state statutes and regulations shall be delivered by the local board of education to the state board. Within forty-five days after a request for release is received by the state board, the state board shall either grant or deny the request. If the state board grants the request, it may orally notify the local board of education and the charter school of its decision. If the state board denies the request, it shall notify the local board of education and the charter school in writing that the request is denied and specify the reasons for denial. If the local board of education and the charter school do not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or regulations, the denial shall specify the state statutes and regulations for which the release is denied, and the denial shall apply only to those state statutes and regulations so specified.

(4) A material revision of the terms of the contract may be made only with the approval of the local board of education and the governing body of the charter school.

(5) Any term included in a charter contract that would require a charter school to waive or otherwise forego receipt of any amount of operational or capital construction funds provided to the charter school pursuant to the provisions of this article or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable.

History

Source: L. 93: Entire article added, p. 1054, § 1, effective June 3. **L. 97:** (1) amended, p. 400, § 2, effective August 6. **L. 98:** (3) amended, p. 1209, § 1, effective August 5. **L. 2001:** (2) amended, p. 337, § 3, effective April 16. **L. 2002:** (2)(c) and (5) added, pp. 1766, 1753, § § 33, 30, effective June 7.

Annotations

The general assembly did not intend approval of a charter application to establish a final contract between the local board and the charter school proponents, but rather intended the approval to be an interim step toward creation of that contract. A local board can comply with a state board order to approve a charter application and still expect resolution of its initial grounds for denial in a satisfactory final agreement. Board of Educ., Dist. No. 1 v. Booth, 984 P.2d 639 (Colo. 1999).

The governing policy provisions of a charter contract are made up of the charter school application and all agreements and requests releasing the charter school from school district policies. Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).

The state board of education has complete statutory authority to settle any disputes arising from implementation of the governing policy provisions of the charter contract, and the governing policy provisions are not subject to judicial review. Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).

Applied in Academy of Charter Schools v. Adams Cty. School Dist. No. 12, 994 P.2d 442 (Colo. App. 1999), aff'd in part and rev'd in part on other grounds, 32 P.3d 456 (Colo. 2001).

22-30.5-106. Charter application - contents.

Statute text

(1) The charter school application shall be a proposed agreement and shall include:

(a) The mission statement of the charter school, which must be consistent with the principles of the general assembly's declared purposes as set forth in section 22-30.5-102 (2) and (3);

(b) The goals, objectives, and pupil performance standards to be achieved by the charter school;

(c) Evidence that an adequate number of parents, teachers, pupils, or any combination thereof support the formation of a charter school;

(d) Repealed.

(e) A description of the charter school's educational program, pupil performance standards, and curriculum, which must meet or exceed any content standards adopted by the school district in which the charter school has applied for a charter and must be designed to enable each pupil to achieve such standards;

(f) A description of the charter school's plan for evaluating pupil performance, the types of assessments that will be used to measure pupil progress towards achievement of the school's pupil performance standards, the timeline for achievement of such standards, and the procedures for taking corrective action in the event that pupil performance at the charter school falls below such standards;

(g) Evidence that the plan for the charter school is economically sound for both the charter school and the school

district, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the school district, is to be conducted, and a plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school;

(h) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(i) An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any;

(i.5) The employment policies of the proposed charter school;

(j) An agreement between the parties regarding their respective legal liability and applicable insurance coverage;

(k) A description of how the charter school plans to meet the transportation needs of its pupils and, if the charter school plans to provide transportation for pupils, a plan for addressing the transportation needs of low-income and academically low-achieving pupils;

(l) A description of the charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3), and the criteria for enrollment decisions;

(m) A dispute resolution process, as provided in section 22-30.5-107.5.

(2) No person, group, or organization may submit an application to convert a private school or a nonpublic home-based educational program into a charter school or to create a charter school which is a nonpublic home-based educational program as defined in section 22-33-104.5.

(3) A charter applicant is not required to provide personal identifying information concerning any parent, teacher, or prospective pupil prior to the time that the charter is approved and either the charter school actually employs the teacher or the pupil actually enrolls in the charter school, whichever is applicable. A charter school applicant shall provide, upon request of the school district, aggregate information concerning the grade levels and schools in which prospective pupils are enrolled.

History

Source: **L. 93:** Entire article added, p. 1054, § 1, effective June 3. **L. 94:** (1)(l) added, p. 1379, § 3, effective May 25. **L. 96:** (1)(d) repealed and (1)(i.5) added, p. 753, § § 3, 4, effective May 22. **L. 97:** (1)(e) amended, p. 586, § 15, effective April 30. **L. 99:** (1)(m) and (3) added, pp. 1255, 1256, § § 2, 4, effective June 2.

Annotations

Cross references: For the legislative declaration contained in the 1999 act enacting subsections (1)(m) and (3), see section 1 of chapter 302, Session Laws of Colorado 1999.

Annotations

The governing policy provisions of a charter contract are made up of the charter school application and all agreements and requests releasing the charter school from school district policies. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Applied in *Academy of Charter Schools v. Adams Cty. School Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

22-30.5-107. Charter application - process.

Statute text

(1) A charter applicant cannot apply to, or be granted a charter by, a school district unless a majority of the charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto. The local board of education shall receive and review all applications for charter schools. Applications must be filed with the local board of education by October 1 to be eligible for consideration for the following school year. The local board of education shall not charge any application fees. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant. The charter school application shall be reviewed by the district accountability committee prior to consideration by the local board of education.

(1.5) For purposes of reviewing a charter school application, a district accountability committee shall include at least:

(a) One person with a demonstrated knowledge of charter schools, regardless of whether that person resides within the school district; and

(b) One parent or legal guardian of a child enrolled in a charter school in the school district; except that, if there are no charter schools in the school district, the local board of education shall appoint a parent or legal guardian of a child enrolled in the school district.

(2) After giving reasonable public notice, the local board of education shall hold community meetings in the affected areas or the entire school district to obtain information to assist the local board of education in its decision to grant a charter school application. The local board of education shall rule by resolution on the application for a charter school in a public hearing, upon reasonable public notice, within seventy-five days after receiving the application filed pursuant to subsection (1) of this section. All negotiations between the charter school and the local board of education on the contract shall be concluded by, and all terms of the contract agreed upon, no later than ninety days after the local board of education rules by resolution on the application for a charter school unless the parties mutually agree to waive this deadline.

(2.5) The charter applicant and the local board of education may jointly waive the deadlines set forth in this section.

(3) If a local board of education denies a charter school application or unilaterally imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to section 22-30.5-108.

(4) If a local board of education denies a charter school application, it shall state its reasons for the denial. If a local board of education grants a charter, it shall send a copy of the approved charter to the department of education within fifteen days after granting the charter.

Annotations

Editor's note: This version of this section is effective until July 1, 2003.

Statute text

22-30.5-107. Charter application - process.

Statute text

(1) A charter applicant cannot apply to, or be granted a charter by, a school district unless a majority of the charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto. The local board of education shall receive and review all applications for charter schools. Applications must be filed with the local board of education by a date determined by the local board of education to be eligible for consideration for the following school year. The date determined by the local board of education

for filing of applications shall not be any earlier than August 15, or any later than October 1. Prior to any change in the application deadline, the local board of education shall notify each charter school applicant in the district of the proposed change by certified letter. The local board of education shall not charge any application fees. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant. The charter school application shall be reviewed by the district accountability committee prior to consideration by the local board of education.

(1.5) For purposes of reviewing a charter school application, a district accountability committee shall include at least:

(a) One person with a demonstrated knowledge of charter schools, regardless of whether that person resides within the school district; and

(b) One parent or legal guardian of a child enrolled in a charter school in the school district; except that, if there are no charter schools in the school district, the local board of education shall appoint a parent or legal guardian of a child enrolled in the school district.

(2) After giving reasonable public notice, the local board of education shall hold community meetings in the affected areas or the entire school district to obtain information to assist the local board of education in its decision to grant a charter school application. The local board of education shall rule by resolution on the application for a charter school in a public hearing, upon reasonable public notice, within seventy-five days after receiving the application filed pursuant to subsection (1) of this section. All negotiations between the charter school and the local board of education on the contract shall be concluded by, and all terms of the contract agreed upon, no later than ninety days after the local board of education rules by resolution on the application for a charter school.

(2.5) The charter applicant and the local board of education may jointly waive the deadlines set forth in this section.

(3) If a local board of education denies a charter school application or unilaterally imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to section 22-30.5-108.

(4) If a local board of education denies a charter school application, it shall state its reasons for the denial. If a local board of education grants a charter, it shall send a copy of the approved charter to the department of education within fifteen days after granting the charter.

Annotations

Editor's note: This version of this section is effective July 1, 2003.

Statute text

History

Source: L. 93: Entire article added, p. 1055, § 1, effective June 3. **L. 96:** Entire section amended, p. 753, § 5, effective May 22. **L. 97:** (1) amended, p. 586, § 16, effective April 30. **L. 99:** (1.5) added and (2) amended, p. 1209, § 2, effective August 4. **L. 2002:** (1) amended, p. 1749, § 23, effective June 7; entire section amended, p. 187, § 1, effective July 1, 2003.

Annotations

Editor's note: Amendments to subsection (1) by Senate Bill 02-051 and House Bill 02-1349 were harmonized.

Annotations

Applied in *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

22-30.5-107.5. Dispute resolution - governing policy provisions - appeal.

Statute text

(1) Except as otherwise provided in section 22-30.5-108, any disputes that may arise between a charter school and its chartering school district concerning governing policy provisions of the school's charter contract shall be resolved pursuant to this section.

(2) (a) A charter school or its chartering school district may initiate a resolution to any dispute concerning a governing policy provision of the school's charter contract by providing reasonable written notice to the other party of an intent to invoke this section. Such notice shall include, at a minimum, a brief description of the matter in dispute and the scope of the disagreement between the parties.

(b) Within thirty days after receipt of the written notice described in paragraph (a) of this subsection (2), the charter school and the school district shall agree to use any form of alternative dispute resolution to resolve the dispute, including but not limited to any of the forms described in the "Dispute Resolution Act", part 3 of article 22 of title 13, C.R.S.; except that any form chosen by the parties shall result in final written findings by a neutral third party within one hundred twenty days after receipt of such written notice.

(c) The neutral third party shall apportion all costs reasonably related to the mutually agreed upon dispute resolution process.

(3) (a) A charter school and its chartering school district may agree to be bound by the written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section. In such case, such findings shall be final and not subject to appeal.

(b) If the parties do not agree to be bound by such written findings of the neutral third party, the parties may appeal such findings to the state board. A party who wishes to appeal such findings shall provide the state board and the other party with a notice of appeal within thirty days after the release of such findings, and the notice of appeal shall contain a brief description of the grounds for appeal. The state board may consider said written findings or other relevant materials in reaching its decision and may, on its own motion, conduct, after sufficient notice, a de novo review of and hearing on the underlying matter.

(4) The state board shall:

(a) Issue its decision on the written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section within sixty days after receipt of the notice of appeal; or

(b) Make its own findings within sixty days after making its own motion for a de novo review and hearing described in paragraph (b) of subsection (3) of this section.

(5) If the state board, after motion by one of the parties and sufficient notice and hearing, finds that either of the parties to an alternative dispute resolution process held pursuant to this section has failed to participate in good faith in such process or has refused to comply with the decision reached after agreeing to be bound by the result of such process, the state board shall resolve the dispute in favor of the aggrieved party.

(6) Any decision by the state board pursuant to this section shall be final and not subject to appeal.

History

Source: L. 99: Entire section added, p. 1255, § 3, effective June 2. **L. 2002:** Entire section R&RE, p. 1001, § 1, effective June 1.

Annotations

Cross references: For the legislative declaration contained in the 1999 act enacting this section, see section 1 of

chapter 302, Session Laws of Colorado 1999.

Annotations

Annotator's note. The following annotations include a case decided under this section as it existed prior to its 2002 repeal and reenactment.

By adding this section, the general assembly established the processes for settling governing policy contract disputes, as well as explicitly establishing the situations in which the state board of education had appellate review. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

The enactment of this section served as a retroactive change to the Charter Schools Act. Because the section authorizes an aggrieved party to seek appellate review from the state board of education, and because the state board's decision is not subject to review, plaintiff lacked standing to pursue its governing policy claims. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

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

Statute text

(1) Acting pursuant to its supervisory power as provided in section 1 of article IX of the state constitution, the state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of any local board of education concerning the denial of a charter school application, the nonrenewal or revocation of a charter school's charter, or the unilateral imposition of conditions on a charter applicant, in accordance with the provisions of this section. Any disputes arising with regard to governing policy provisions of a charter school's charter contract shall be resolved as provided in section 22-30.5-107.5.

(2) A charter applicant or any other person who wishes to appeal a decision of a local board of education concerning a charter application, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant, shall provide the state board and the local board of education with a notice of appeal or of facilitation within thirty days after the local board's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant, whichever is being appealed, specified by the local board of education. The notice shall include a brief statement of the reasons the charter school applicant contends the local board of education's denial of or nonrenewal or revocation of a charter, or imposition of conditions on a charter applicant was in error.

(2.5) If a district court dismisses a case for lack of jurisdiction and the case involves a charter application, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant, the thirty-day period for filing a notice of appeal or of facilitation described in subsection (2) of this section shall be tolled until the date of dismissal by the court.

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

(a) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district, or community, the state board shall remand such decision to the local board of education with written instructions for reconsideration thereof. Said instructions shall include specific recommendations concerning the matters requiring reconsideration.

(b) Within thirty days following the remand of a decision to the local board of education and after reasonable public notice, the local board of education, at a public hearing, shall reconsider its decision and make a final

decision.

(c) If the local board of education's final decision is still to deny, refuse to renew, or revoke a charter or to unilaterally impose conditions unacceptable to the charter applicant, a second notice of appeal may be filed with the state board within thirty days following such final decision.

(d) Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the state board and after reasonable public notice, the state board, at a public hearing, shall determine whether the final decision of the local board of education was contrary to the best interests of the pupils, school district, or community. If such a finding is made, the state board shall remand such final decision to the local board with instructions to approve the charter application, or to renew or reinstate the charter, or to approve or disapprove the conditions imposed on the charter applicant. The decision of the state board shall be final and not subject to appeal.

(3.5) In lieu of a first appeal to the state board pursuant to paragraph (a) of subsection (3) of this section, the parties may agree to facilitation. Within thirty days after denial, nonrenewal, or revocation of a charter by the local board of education, the parties may file a notice of facilitation with the state board. The parties may continue in facilitation as long as both parties agree to its continued use. If one party subsequently rejects facilitation, and such rejection is not reconsidered within seven days, the local board of education shall reconsider its denial, nonrenewal, or revocation of a charter and make a final decision as provided in paragraph (b) of subsection (3) of this section. The charter applicant may file a notice of appeal with the state board as provided in paragraph (c) of subsection (3) of this section within thirty days after a local board of education's final decision to deny, not renew, or revoke a charter.

(4) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to grant a charter, the appeal and review process shall be as follows:

(a) (I) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and determine whether such decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would:

(A) Violate any federal or state laws concerning civil rights;

(B) Violate any court order;

(C) Threaten the health and safety of pupils in the school district;

(D) Violate the provisions of section 22-30.5-109 (2), prescribing the permissible number of charter schools; or

(E) Be inconsistent with the equitable distribution of charter schools among school districts.

(II) If such a determination is made, the state board shall remand such decision to the local board with instructions to deny the charter application. The decision of the state board shall be final and not subject to appeal.

(5) Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school district that grants its charter and accountable to the local board of education pursuant to section 22-30.5-104 (2).

History

Source: **L. 93:** Entire article added, p. 1056, § 1, effective June 3. **L. 94:** (3)(a) and IP(4)(a)(I) amended, p. 1341, § 1, effective May 25. **L. 96:** (2), IP(3), and (3)(c) amended and (3.5) added, p. 754, § 6, effective May 22. **L. 97:** (3)(a), IP(4)(a)(I), and (5) amended, p. 586, § 17, effective April 30. **L. 2002:** (1), (2), IP(3), (3)(c), and (3)(d) amended and (2.5) added, p. 1002, § 2, effective June 1.

Annotations

Where the state board of education concludes that a charter school's remedy lay in district court, such conclusion does not confer jurisdiction on the courts or extend standing to plaintiffs when none otherwise existed. *Academy of Charter Schools v. Adams Cty. School Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), rev'd on other grounds, 32 P.3d 456 (Colo. 2001).

The state board is authorized to substitute its judgment for that of a local board under the "best interests" language of subsection (3)(d). *Board of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

State board's authority is limited upon a second appeal. Where, on first appeal, the state board had approved a charter application in principle but directed the local board and the applicants to negotiate further on unresolved operational details, the state board had no authority to issue a similar, conditional approval on the second appeal pursuant to subsection (3)(d). *Booth v. Board of Educ.*, 950 P.2d 601 (Colo. App. 1997), aff'd in part and rev'd in part on other grounds, 984 P.2d 639 (Colo. 1999).

The plain language of this section authorizes the state board only to require approval of the charter application as submitted and not subsequent status reports. *Board of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

If disputes arise from the implementation of the governing policy provisions of the charter contract, such disputes may eventually be appealed to the state board of education pursuant to this section, and any decision rendered by the state board is final and not subject to appeal. *Academy of Charter Sch. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Only issue on second appeal is whether the local board's denial of an application is contrary to the best interests of the pupils, school district, or community. The state board's purported issuance of a partial or conditional order to approve a pending application, which fell short of an unconditional finding on this issue, was held unenforceable and the case was remanded for further proceedings. *Booth v. Board of Educ.*, 950 P.2d 601 (Colo. App. 1997), aff'd in part and rev'd in part on other grounds, 984 P.2d 639 (Colo. 1999).

State board's final order on second appeal is not subject to judicial review under the State Administrative Procedure Act. *Booth v. Board of Educ.*, 950 P.2d 601 (Colo. App. 1997), aff'd in part and rev'd in part on other grounds, 984 P.2d 639 (Colo. 1999).

Applied in *Academy of Charter Schools v. Adams Cty. School Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), aff'd in part and rev'd in part on other grounds, 32 P.3d 456 (Colo. 2001).

22-30.5-109. Charter schools - restrictions - establishment - number.

Statute text

(1) A local board of education may reasonably limit the number of charter schools in the school district.

(2) (a) No more than sixty charters shall be granted prior to July 1, 1997, and at least sixteen of said sixty charters shall be reserved for charter school applications which are designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(b) Local boards of education which grant charter school applications shall report such action to the state board and shall specify whether or not such school is designed to increase the educational opportunities of at-risk pupils. The state board shall promptly notify the board of education of each school district when the limits specified in paragraph (a) of this subsection (2) have been reached.

(3) It is the intent of the general assembly that priority of consideration be given to charter school applications designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(4) If otherwise qualified, nothing in this part 1 shall be construed to prohibit any institution certified as an educational clinic pursuant to article 27 of this title, on or before April 1, 1993, from applying to become a charter school pursuant to this part 1.

(5) Nothing in this part 1 shall be construed to prevent a school in a school district which is comprised of only one school from applying to become a charter school pursuant to this part 1.

(6) A school district shall not discriminate against a charter school in publicizing the district's educational options through advertising, direct mail, availability of mailing lists, or other informational activities, provided that the charter school pays for its share of such publicity at cost.

(7) On-line pupils enrolled in a charter school shall not be included in the charter school's pupil enrollment for purposes of determining whether the charter school is in compliance with any restrictions the chartering school district may impose on the number of pupils that may enroll in the charter school. A chartering school district may not restrict the number of on-line pupils a charter school may enroll.

History

Source: **L. 93:** Entire article added, p. 1057, § 1, effective June 3. **L. 96:** (4) and (5) amended, p. 668, § 6, effective May 2; (2)(a) amended, p. 754, § 7, effective May 22. **L. 98:** (1) amended, p. 823, § 31, effective August 5. **L. 99:** (6) added, p. 1256, § 6, effective June 2. **L. 2002:** (7) added, p. 1750, § 24, effective June 7.

Annotations

Cross references: For the legislative declaration contained in the 1999 act enacting subsection (6), see section 1 of chapter 302, Session Laws of Colorado 1999.

22-30.5-110. Charter schools - term - renewal of charter - grounds for nonrenewal or revocation - repeal.

Statute text

(1) A new charter may be approved for a period of at least three years but not more than five academic years. A charter may be renewed for a period not to exceed five years.

(1.5) No later than December 1 of the year prior to the year in which the charter expires, the governing body of a charter school shall submit a renewal application to the local board of education. The local board of education shall rule by resolution on the renewal application no later than February 1 of the year in which the charter expires, or a mutually agreed upon date.

(2) A charter school renewal application submitted to the local board of education shall contain:

(a) A report on the progress of the charter school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the initial approved charter application;

(b) A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that will allow comparison of such costs to other schools or other comparable organizations, in a format required by the state board of education; and

(c) (I) For renewal applications submitted on or after July 1, 2001, but prior to July 1, 2010, a statement specifying how the charter school intends to use the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 required by section 17 of article IX of the state constitution to raise student achievement.

(II) This paragraph (c) is repealed, effective July 1, 2011.

(3) A charter may be revoked or not renewed by the local board of education if such board determines that the charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter application;

(b) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter application;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the charter school was not specifically exempted.

(4) In addition, a charter may be not renewed upon a determination by the local board of education that it is not in the interest of the pupils residing within the school district to continue the operation of the charter school.

(4.5) If a local board of education revokes or does not renew a charter, the board shall state its reasons for the revocation or nonrenewal.

(5) A decision to revoke or not to renew a charter may be appealed or facilitation may be sought pursuant to the provisions of section 22-30.5-108.

History

Source: L. 93: Entire article added, p. 1058, § 1, effective June 3. **L. 96:** (4.5) added and (5) amended, p. 755, § 8, effective May 22. **L. 97:** (1) amended and (1.5) added, p. 400, § 3, effective August 6. **L. 2001:** (2) amended, p. 338, § 4, effective April 16.

22-30.5-111. Charter schools - employee options.

Statute text

(1) During the first year that a teacher employed by a school district is employed by a charter school, such teacher shall be considered to be on a one-year leave of absence from the school district. Such leave of absence shall commence on the first day of services for the charter school. Upon the request of the teacher, the one-year leave of absence shall be renewed for up to two additional one-year periods upon the mutual agreement of the teacher and the school district. At the end of three years, the relationship between the teacher and the school district shall be determined by the school district and such district shall provide notice to the teacher of the relationship.

(2) The local board of education shall determine by policy or by negotiated agreement, if one exists, the employment status of school district employees employed by the charter school who seek to return to employment with public schools in the school district.

(3) Employees of a charter school shall be members of the public employees' retirement association or the Denver public schools retirement system, whichever is applicable. The charter school and the teacher shall contribute the appropriate respective amounts as required by the funds of such association or system.

History

Source: L. 93: Entire article added, p. 1059, § 1, effective June 3.

22-30.5-112. Charter schools - financing - guidelines.

Statute text

(1) For purposes of the "Public School Finance Act of 1994", article 54 of this title, pupils enrolled in a charter school shall be included in the pupil enrollment or the on-line pupil enrollment, whichever is applicable, of the school district that granted its charter. The school district that granted its charter shall report to the department of education the number of pupils included in the school district's pupil enrollment and the school district's on-line pupil enrollment that are actually enrolled in each charter school. The school district shall also identify each charter school that is a qualified charter school as defined in section 22-54-124 (1) (f) or (1) (f.5), whichever is applicable, identify each qualified charter school that will be operating in a school district facility and that does not have ongoing financial obligations incurred to repay the outstanding costs of new construction undertaken for

the charter school's benefit, and provide an estimate of the number of pupils expected to be enrolled in each qualified charter school during the budget year following the budget year in which the district makes a report.

(2) (a) (I) As part of the charter school contract, the charter school and the school district shall agree on funding and any services to be provided by the school district to the charter school.

(II) For the 1999-2000 budget year, the charter school and the school district shall begin discussions on the contract using eighty percent of the district per pupil operating revenues.

(III) (A) For budget year 2000-01 and budget years thereafter, except as otherwise provided in paragraph (a.3) of this subsection (2), each charter school and the authorizing school district shall negotiate funding under the contract at a minimum of ninety-five percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil and one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school. The school district may choose to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school; except that such amount shall not exceed five percent of the district per pupil revenues for each pupil, who is not an on-line pupil, enrolled in the charter school.

(B) For budget years 2001-02 through 2010-11, the minimum amount of funding specified in sub-subparagraph (A) of this subparagraph (III) shall reflect the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 received by the school district as required by section 17 of article IX of the state constitution.

(a.3) If the authorizing school district enrolls five hundred or fewer students, the charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school, minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district for pupils who are not on-line pupils, based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil plus one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.

(a.4) (I) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all its central administrative overhead costs. The actual central administrative overhead costs shall be the amount charged to the charter school. Any difference, within the limitations of subparagraph (III) of paragraph (a) of this subsection (2) and paragraph (a.3) of this subsection (2), between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party.

(II) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all the actual costs of district services the charter school chose at its discretion to purchase from the district calculated in accordance with paragraph (b) of this subsection (2). Any difference between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party.

(III) If either party disputes an itemized accounting provided pursuant to subparagraphs (I) and (II) of this paragraph (a.4), any charges included in an accounting, or charges to either party, that party is entitled to request a third-party review at the requesting party's expense. The review shall be conducted by the department of education, and the department's determination shall be final.

(a.5) As used in this subsection (2):

(I) "Central administrative overhead costs" means indirect costs incurred in providing items or services listed under the heading of support services - general administration in the school district chart of accounts as specified by rule of the state board.

(II) "District per pupil revenues" means the district's total program as defined in section 22-54-103 (6) for any budget year divided by the district's funded pupil count as defined in section 22-54-103 (7) for said budget year.

(II.5) "District per pupil on-line funding" means the district's on-line funding, as determined pursuant to section 22-54-104 (4.5), for any budget year divided by the district's on-line pupil enrollment, as defined in section 22-54-103 (8.5), for said budget year.

(III) "Per pupil operating revenues" shall have the same meaning as provided in section 22-54-103 (9).

(a.7) For the 2000-01 budget year and budget years thereafter, each charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (2) (b), multiplied by the number of students enrolled in the charter school who are not on-line pupils, to a fund created by the charter school for capital reserve purposes, as set forth in section 22-45-103 (1) (c) and (1) (e), or solely for the management of risk-related activities, as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds. Said moneys shall be used for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) and may not be expended by the charter school for any other purpose.

(a.8) For the 2000-2001 budget year and budget years thereafter, the school district shall provide federally required educational services to students enrolled in charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district. Each charter school shall pay an amount equal to the per pupil cost incurred by the school district in providing federally required educational services, multiplied by the number of students enrolled in the charter school. At either party's request, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services.

(a.9) For budget year 2002-03 and budget years thereafter, and in accordance with section 22-30.5-406, the funding provided by a chartering school district to a charter school pursuant to this subsection (2) shall be reduced by the amount of any direct payments of principal and interest due on bonds issued on behalf of a charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction that were made by the state treasurer or the chartering school district on behalf of the charter school.

(b) The charter school, at its discretion, may contract with the school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a charter school in purchasing any district service pursuant to this paragraph (b) shall be determined by dividing the cost of providing the service for the entire school district, as specified in the school district's budget, by the number of students enrolled in the school district and multiplying said amount by the number of students enrolled in the charter school.

(b.5) The charter school may agree with the school district to pay any actual costs incurred by the school district in providing unique support services used only by the charter school.

(c) (I) For the 1999-2000 budget year, in no event shall the amount of funding negotiated pursuant to this subsection (2) be less than eighty percent of the district per pupil operating revenues multiplied by the number of pupils enrolled in the charter school.

(II) For budget year 2000-2001 and budget years thereafter, the amount of funding received by a charter school pursuant to this subsection (2) shall not be less than ninety-five percent of the district per pupil revenues multiplied by the number of pupils enrolled in the charter school or as otherwise provided in paragraph (a.3) of this subsection (2) for any charter school authorized by a school district that enrolls five hundred or fewer students.

(d) It is the intent of the general assembly that funding and service agreements pursuant to this subsection (2) shall be neither a financial incentive nor a financial disincentive to the establishment of a charter school.

(e) Fees collected from students enrolled at a charter school shall be retained by such charter school.

(3) (a) (I) For the 1999-2000 budget year, notwithstanding subsection (2) of this section, the proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be directed to charter schools enrolling such students by their school districts or administrative units. The proportionate share of moneys generated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

(II) For budget year 2000-2001 and budget years thereafter, if the charter school and the school district have negotiated to allow the charter school to provide federally required educational services pursuant to paragraph (a.8) of subsection (2) of this section, the proportionate share of state and federal resources generated by students receiving such federally required educational services or staff serving them shall be directed by the school district or administrative unit to the charter school enrolling such students.

(III) For budget year 2000-01 and budget years thereafter, the proportionate share of moneys generated under federal or state categorical aid programs, other than federally required educational services, shall be directed to charter schools serving students eligible for such aid; except that a school district that receives small attendance center aid pursuant to section 22-54-122 for a small attendance center that is a charter school shall forward the entire amount of such aid to the charter school for which it was received.

(a.5) Each charter school that serves students who may be eligible to receive services provided through federal aid programs shall comply with all federal reporting requirements to receive the federal aid.

(b) If a student with a disability attends a charter school, the school district of residence shall be responsible for paying any tuition charge for the excess costs incurred in educating the child in accordance with the provisions of section 22-20-109 (5).

(4) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant shall be accepted by the governing body if subject to any condition contrary to law or contrary to the terms of the contract between the charter school and the local board of education.

(4.5) Any moneys received by a charter school from any source and remaining in the charter school's accounts at the end of any budget year shall remain in the charter school's accounts for use by the charter school during subsequent budget years and shall not revert to the school district or to the state.

(5) The department of education will prepare an annual report and evaluation for the governor and the house and senate committees on education on the success or failure of charter schools, their relationship to other school reform efforts, and suggested changes in state law necessary to strengthen or change the charter school program.

(6) The department of education will provide technical assistance to persons and groups preparing or revising charter applications.

History

Source: **L. 93:** Entire article added, p. 1059, § 1, effective June 3. **L. 94:** (2)(a) amended, p. 812, § 25, effective April 27; (1) and (3) amended, p. 1379, § 4, effective May 25. **L. 96:** (5) amended, p. 1240, § 97, effective August 7. **L. 97:** (1) amended, p. 587, § 18, effective April 30. **L. 99:** (2)(a), (2)(b), (2)(c), and (3)(a) amended and (2)(a.3), (2)(a.5), (2)(a.7), (2)(a.8), and (2)(b.5) added, p. 172, § 1, effective March 30; (3)(a) R&RE and (4.5) added, p. 1257, § 8, 7, effective June 2. **L. 2001:** (1) and (2)(a)(III) amended and (2)(a.4) added, pp. 349, 339, 358, § 11, 2, 25, effective April 16; (2)(a)(III) amended, p. 337, § 2, effective April 16. **L. 2002:** (1), (2)(a)(III)(A), (2)(a.3), (2)(a.7), and (3)(a)(III) amended and (2)(a.5)(II.5), (2)(a.9), and (3)(a.5) added, pp. 1750, 1751, 1766, § 25, 26, 34, effective June 7.

Annotations

Editor's note: Amendments to subsection (2)(a)(III) by Senate Bill 01-129 and House Bill 01-1232 were

harmonized.

Annotations

Cross references: (1) For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

(2) For the legislative declaration contained in the 1999 act repealing and reenacting subsection (3)(a) and enacting subsection (4.5), see section 1 of chapter 302, Session Laws of Colorado 1999.

Annotations

Applied in *Academy of Charter Schools v. Adams Cty. School Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

22-30.5-112.3. Charter schools - additional aid from district.

Statute text

(1) (a) (I) For the 2001-02 budget year and each budget year thereafter, a qualified charter school, as defined in section 22-54-124 (1) (f) or (1) (f.5), whichever is applicable, shall receive state education fund moneys from the school district that granted its charter in an amount equal to the percentage of the district's certified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the qualified charter school multiplied by the total amount of state education fund moneys distributed to the district for the same budget year pursuant to section 22-54-124 (3).

(II) As used in this paragraph (a), "pupils" means pupils other than on-line pupils enrolled in a charter school.

(b) Funding received pursuant to paragraph (a) of this subsection (1) shall be in addition to any funding provided pursuant to section 22-30.5-112.

(c) A district shall provide funding to each qualified charter school, as defined in section 22-54-124 (1) (f) or (1) (f.5), whichever is applicable, by making a single lump sum payment to the qualified charter school as soon as possible after the district receives a lump sum payment of state education fund moneys pursuant to section 22-54-124 (4).

(2) A charter school shall use moneys it receives pursuant to subsection (1) of this section solely for capital construction, as defined in section 22-54-124 (1) (a).

History

Source: L. 2001: Entire section added, p. 348, § 10, effective April 16. **L. 2002:** (1)(a) and (1)(c) amended, p. 1751, § 27, effective June 7.

22-30.5-112.5. Charter schools - transportation plans.

Statute text

If a charter school's charter or contract includes provision of transportation services by the school district, the charter school and the school district shall collaborate in developing a transportation plan to use school district equipment to transport students enrolled in the charter school to and from the charter school and their homes and to and from the charter school and any extracurricular activities. The transportation plan may include, but need not be limited to, development of bus routes and plans for sharing the use of school district equipment for the benefit of students enrolled in charter schools of the school district and students enrolled in other schools of the school district.

History

Source: L. 2001: Entire section added, p. 368, § 37, effective April 16.

22-30.5-113. Charter schools - evaluation - report.

Statute text

(1) The state board shall compile evaluations of charter schools received from local boards of education. The state board shall review information regarding the regulations and policies from which charter schools were released pursuant to section 22-30.5-105 to determine if the releases assisted or impeded the charter schools in meeting their stated goals and objectives.

(2) Repealed.

(3) In preparing the report required by this section, the state board shall compare the performance of charter school pupils with the performance of ethnically and economically comparable groups of pupils in other public schools who are enrolled in academically comparable courses.

History

Source: L. 93: Entire article added, p. 1061, § 1, effective June 3. **L. 98:** (2) repealed, p. 1076, § 6, effective June 1.

22-30.5-114. Repeal of part. (Repealed)

History

Source: L. 93: Entire article added, p. 1061, § 1, effective June 3. **L. 96:** Entire section amended, p. 668, § 7, effective May 2. **L. 98:** Entire section repealed, p. 164, § 1, effective April 6.

22-30.5-115. Construction of article - severability.

Statute text

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

History

Source: L. 96: Entire section added, p. 755, § 9, effective May 22.

PART 2 - CHARTER SCHOOL DISTRICTS

22-30.5-201. Short title.

Statute text

This part 2 shall be known and may be cited as the "Charter School District Act".

History

Source: L. 96: Entire part added, p. 663, § 1, effective May 2.

22-30.5-202. Legislative declaration.

Statute text

The general assembly finds that the restrictions and requirements of state laws and regulations often prevent

school districts from achieving effective education reform. To determine whether allowing school districts to operate under a charter can help a district more effectively achieve its goal of education reform, the general assembly finds that a pilot program should be enacted allowing school districts to specify their own duties, responsibilities, and operations.

History

Source: L. 96: Entire part added, p. 663, § 1, effective May 2.

22-30.5-203. Definitions.

Statute text

As used in this part 2, unless the context otherwise requires:

- (1) "Charter school district" means a school district operating under a charter that has been approved by the state board pursuant to section 22-30.5-205.
- (2) "Local board of education" means the school district board of education.
- (3) "State board" means the state board of education.

History

Source: L. 96: Entire part added, p. 663, § 1, effective May 2.

22-30.5-204. Charter school districts - creation - requirements.

Statute text

(1) Beginning with the 1997-98 school year, the state board shall initiate a pilot program to test the effectiveness of charter school districts. As part of this pilot program, the state board may approve up to five school districts in the state to operate as charter school districts; except that the state board shall approve only those applications that meet the qualifications specified in section 22-30.5-205. To be approved as a charter school district, the local board of education shall submit an application to the state board as prescribed in section 22-30.5-205. Any school district that is approved to operate as a charter school district shall operate under the provisions of its charter and shall be subject to the provisions of this part 2, part 4 of article 7, and articles 20, 30, 31, 36, 40 to 43, 54, and 60 to 64 of this title and the reporting requirements contained in sections 22-33-105 and 22-44-105 (4) and shall not otherwise be subject to state statutes or regulations concerning school districts except as may be provided in the charter or in this part 2.

(1.5) Notwithstanding the provisions of subsection (1) of this section, all charter school districts shall be subject to the Colorado statewide assessment program established in part 4 of article 7 of this title and shall supply to the department all information required to prepare the school accountability reports pursuant to part 6 of article 7 of this title.

(2) A charter school district shall continue to:

- (a) Operate as a public, nonsectarian, nonreligious public school district, with control of instruction vested in the directors of the local board of education, under the general supervision of the state board, pursuant to article IX of the state constitution;
- (b) Operate within the same geographical boundaries that existed prior to its becoming a charter school district unless its boundaries are changed pursuant to article 30 of this title;
- (c) Receive state moneys as provided in article 54 of this title as if it did not operate under a charter;

(d) Provide special education services for students with disabilities as provided in article 20 of this title;

(e) Be liable for timely payment on its bonded indebtedness and subject to the same bonded indebtedness limitations as if it did not operate under a charter.

(3) A charter school district shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services. A charter school district shall be subject to any court-ordered desegregation plan in effect for the school district at the time the district's charter application is approved. Enrollment in a charter school district shall be open to any child who resides within the state as if the charter school district were not operating under a charter.

(4) A charter school district shall be accountable to the state board for purposes of ensuring compliance with the charter provisions and the requirements of section 1 of article IX of the state constitution.

History

Source: L. 96: Entire part added, p. 664, § 1, effective May 2. **L. 97:** (1) amended, p. 461, § 6, effective August 6. **L. 98:** (1) amended, p. 989, § 9, effective July 1. **L. 2000:** (1.5) added, p. 350, § 7, effective April 10. **L. 2001:** (1.5) amended, p. 1499, § 23, effective June 8.

22-30.5-205. Charter school district application - requirements - repeal.

Statute text

(1) (a) Before a local board of education applies for a charter to the state board, such board shall submit the issue of whether to operate the school district as a charter school district to the eligible electors of the school district at any regular biennial school election or at a special election called for said purpose. Any election called pursuant to this subsection (1) shall be conducted pursuant to articles 1 to 13 of title 1, C.R.S. The local board of education shall name a designated election official who shall be responsible for calling and conducting the special election.

(b) The local board of education may contract with a county clerk and recorder to be the designated election official or for the administration of any of the duties of the designated election official relating to the conduct of an election called pursuant to this subsection (1).

(c) If a majority of the eligible electors voting in an election called pursuant to this subsection (1) vote in favor of the question, the local board of education may submit an application to the state board to become a charter school district.

(2) The state board shall provide by rule promulgated pursuant to article 4 of title 24, C.R.S., for a charter school district application process. To be approved as a charter school district, a school district must comply with the requirements of the state board concerning accreditation.

(3) In addition to any requirements that the state board of education may establish for accreditation, a charter school district application shall include the following:

(a) A statement of mission and purpose for operating the school district under a charter, including a clear statement of the school district's goals and objectives;

(b) Evidence of broad-based support among parents, teachers, and pupils within the applying school district for the formation of a charter school district by way of a petition, public opinion survey, or other similar, reliable indicator of public opinion;

(c) Evidence that the charter is educationally sound and is in the best educational interest of the students;

(d) Evidence that the plan for the charter school district is economically sound;

(e) An explanation of the relationship that will exist between the charter school district and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative or representatives, if any.

(4) The state board and an applying school district may freely negotiate which state statutes and regulations not otherwise required to apply to a charter school district pursuant to section 22-30.5-204 (1) shall apply to a charter school district.

(5) (a) Any school district with a pupil enrollment of fifteen thousand or less shall be eligible to apply to become a charter school district.

(b) This subsection (5) is repealed, effective July 1, 2003.

History

Source: L. 96: Entire part added, p. 665, § 1, effective May 2.

22-30.5-206. Charter school districts - contract contents.

Statute text

(1) An approved charter school district application shall constitute an agreement, and the terms thereof shall be the terms of a contract between the charter school district and the state board.

(2) The contract between the charter school district and the state board shall reflect all agreements regarding the operation of the charter school district.

(3) The terms of the contract may be revised at any time, with the approval of both the state board and the local board of education, whether or not the stated provisions of the contract are being fulfilled.

History

Source: L. 96: Entire part added, p. 666, § 1, effective May 2.

22-30.5-207. Charter school districts - term - renewal of charter - grounds for nonrenewal, probation, or revocation - repeal.

Statute text

(1) A charter may be approved or renewed for a period not to exceed six academic years. The state board shall promulgate rules pursuant to article 4 of title 24, C.R.S., for a charter renewal process.

(2) The department of education shall provide by rule for ongoing review of a charter school district's compliance with its charter accreditation.

(3) Staff from the department of education shall visit each charter school district at least once each year to determine the status and progress toward the goals of the charter. Department staff shall note the effectiveness of the charter organization in improving the quality of education in the school district.

(4) If, in either the ongoing review, the annual visit, or the renewal procedure, the department of education finds that the charter school district is not in compliance with the charter, the state board shall provide by rule for a procedure whereby the charter may be revoked or not renewed or the charter school district may be placed on probation if the noncompliance is not addressed, as well as a procedure for the disposition of probation. Moreover, the state board may not renew a charter if it determines that the charter is not in the interest of the pupils residing in the district.

(5) (a) Under no condition shall any charter school district charter be renewed prior to July 1, 2003.

(b) This subsection (5) is repealed, effective July 1, 2003.

History

Source: L. 96: Entire part added, p. 666, § 1, effective May 2.

22-30.5-208. Report to general assembly on pilot program.

Statute text

No later than January 1, 2002, the state board and all charter districts shall report to the general assembly regarding whether the provisions of this part 2 assisted or impeded the charter school districts in meeting their stated goals and objectives. In preparing the reports required by this section, the state board and the charter school districts shall compare the performance of charter school district pupils with the performance of ethnically and economically comparable groups of pupils in other public school districts who are enrolled in academically comparable courses.

History

Source: L. 96: Entire part added, p. 667, § 1, effective May 2.

22-30.5-209. Repeal of part.

Statute text

This part 2 is repealed, effective July 1, 2003.

History

Source: L. 96: Entire part added, p. 667, § 1, effective May 2

PART 3 - INDEPENDENT CHARTER SCHOOLS

22-30.5-301. Legislative declaration.

Statute text

(1) The general assembly hereby finds that section 2 of article IX of the state constitution requires the general assembly to provide for the establishment and maintenance of a thorough and uniform system of free public schools. The state therefore has an obligation to ensure that every student has a chance to attend a school that will provide an opportunity for a quality education. If a school is not providing a thorough and adequate education, as determined by the academic performance grading system established in section 22-7-604, the state has an obligation to the students enrolled in that school to make changes to ensure that they have an opportunity to receive a quality education comparable to students in other public schools in the state.

(2) Therefore, the general assembly finds it necessary to establish a system for independent charter schools to operate within local school buildings when school districts have failed to provide adequate educational opportunities.

History

Source: L. 2000: Entire part added, p. 351, § 8, effective April 10.

22-30.5-302. Definitions.

Statute text

As used in this part 3, unless the context otherwise requires:

- (1) "Applicant" means the person or group of persons submitting a proposal for an independent charter to operate an independent charter school pursuant to the provisions of this part 3. An "applicant" may include, but shall not be limited to, an individual, a group of individuals, a nonprofit or for-profit company, an existing public school, a school district, or an institution of higher education.
- (2) "Commissioner" means the commissioner of education appointed pursuant to section 22-2-110.
- (3) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.
- (4) "Independent charter" means the agreement between a local board of education and an independent charter school governing the existence and operation of the independent charter school.
- (5) "Independent charter proposal" means a proposal for the operation of an independent charter school submitted in response to a request for proposals pursuant to the provisions of this part 3.
- (6) "Independent charter school" means a charter school approved pursuant to this part 3 that is a public school of a school district.
- (7) "Local board of education" means the board of education of the school district in which the independent charter school is or is proposed to be located.
- (8) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

History

Source: L. 2000: Entire part added, p. 351, § 8, effective April 10.

22-30.5-303. Independent charter schools - request for proposals - response contents.

Statute text

- (1) Whenever the state board determines that it is necessary to recommend conversion of a public school to an independent charter school to a local board of education pursuant to the provisions of section 22-7-609 (5), the state board shall issue a request for proposals pursuant to subsection (2) of this section and supervise the appointment of a review committee pursuant to section 22-30.5-304.
- (2) (a) If an independent charter school is to be organized, the state board, on or before May 10 of the year in which the independent charter school is to open, shall cause to be issued a request for proposals. The request for proposals shall solicit proposals from interested parties, including but not limited to individuals, persons, nonprofit or for-profit companies, existing public schools or school districts, and institutions of higher education, for the operation of an independent charter school within a building that currently houses a public school of a school district. Responses to the request for proposals shall be due no later than the date specified by the state board pursuant to rules adopted by the state board in accordance with paragraph (b) of this subsection (2). The state board shall issue the request for proposals without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.
- (b) The state board shall adopt rules specifying a schedule for receipt of the responses to the request for proposals pursuant to paragraph (a) of this subsection (2), the formation of a review committee and receipt of the recommendations of said committee pursuant to section 22-30.5-304, and the selection of an applicant and notification to the local board of education pursuant to section 22-30.5-305. Said schedule shall ensure the completion of negotiations on the independent charter no later than August 15 of the year in which the independent charter school is to open. The rules shall also specify the information that an independent charter proposal shall include in order to be eligible for consideration. Such information shall include, but need not be limited to, the following:
 - (I) Demonstrable evidence that the applicant for the independent charter has prior experience in improving the

academic performance of students;

(II) The goals, objectives, and student performance standards to be achieved by the independent charter school;

(III) A description of the independent charter school's educational program, student performance standards, and curriculum, which shall meet or exceed the state model content standards adopted pursuant to part 4 of article 7 of this title and shall be designed to enable each student to achieve such standards;

(IV) A description of the independent charter school's plan for evaluating student performance, the types of assessments that shall be used to measure student progress toward achievement of the school's student performance standards, including but not limited to the statewide assessments administered under the Colorado student assessment program pursuant to section 22-7-409, the timeline for achievement of the school's student performance standards, and the procedures for taking corrective action in the event that student performance at the independent charter school fails to meet such standards;

(V) Evidence that the applicant is economically sound, including balance sheets and operating statements for recent years of operation when appropriate, a proposed budget for the term of the independent charter, and a description of the manner in which an annual audit of the financial and administrative operations of the independent charter school is to be conducted;

(VI) A list of the rules and statutory requirements for which the independent charter school is requesting a waiver and an explanation of the manner in which the independent charter school shall comply with the intent of any rule or statutory requirement that is waived;

(VII) A description of the governance and operation of the independent charter school;

(VIII) An explanation of the relationship that will exist between the independent charter school and its employees;

(IX) The employment policies of the independent charter school;

(X) How the independent charter school will handle legal liability between the school and the school district and any applicable insurance coverage;

(XI) A description of how the independent charter school plans to meet the transportation needs of its students and, if the independent charter school plans to provide transportation for its students, a plan for addressing the transportation needs of low-income students;

(XII) A description of the independent charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3), and the criteria for enrollment decisions, which shall include offering enrollment to students already enrolled in the school and students who would be assigned to the school under school district policy.

(c) If the commissioner finds that the information in any independent charter proposal is incomplete, the commissioner shall request the information necessary to complete the minimum requirements for the proposal.

History

Source: L. 2000: Entire part added, p. 352, § 8, effective April 10. **L. 2001:** (2)(a) and IP(2)(b) amended, p. 357, § 21, effective April 16.

22-30.5-304. Review committee - membership - recommendations.

Statute text

(1) Whenever an independent charter school is to be organized pursuant to this part 3, on or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b), the commissioner shall cause a review committee to be formed. The review committee shall consist of:

- (a) The commissioner or a designee of the commissioner, who shall chair the review committee but shall be a nonvoting member of the committee;
- (b) A member of the board of education of the school district in which the school is geographically located who shall be the member elected from the director district in which the school is geographically located, if members of the board are elected from director districts, or the member who resides closest to the school, if members are not elected from director districts;
- (c) (I) A licensed professional employed at the school who is elected by a vote of all licensed professionals who provide instruction at the school or have an office in the school.
- (II) The election required by this paragraph (c) shall be conducted during the month specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b).
- (d) (I) Two parents of students enrolled in the school who are members of the school advisory council and are elected by a vote of the members of the school advisory council.
- (II) The election required by this paragraph (d) shall be conducted during the month specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b).
- (e) (I) A principal of a school at the same elementary, middle, or high school level as the independent charter school that is to be organized, appointed by the governor.
- (II) In appointing a principal pursuant to this paragraph (e), the governor shall appoint a principal of a public school that received an academic performance rating of "excellent", pursuant to section 22-7-604 (5), for the immediately preceding school year.
- (f) (I) A teacher in a school at the same elementary, middle, or high school level as the independent charter school that is to be organized, appointed by the governor.
- (II) In appointing a teacher pursuant to this paragraph (f), the governor shall appoint a teacher from a public school that received an academic performance rating of "excellent", pursuant to section 22-7-604 (5); and
- (g) A business representative, appointed by the governor, who resides in the neighborhood of the school.
- (2) The committee shall meet by call of the chair of the review committee as needed to review the proposals received in response to the request for proposals issued pursuant to section 22-30.5-303. The committee shall evaluate the proposals and, on or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b), shall forward to the state board all proposals and its recommendations on each proposal. The committee may make recommendations on applicants without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

History

Source: L. 2000: Entire part added, p. 353, § 8, effective April 10. **L. 2001:** IP(1), (1)(c)(II), (1)(d)(II), and (2) amended, p. 357, § 22, effective April 16; (1)(e)(II) and (1)(f)(II) amended, p. 1499, § 24, effective June 8.

22-30.5-305. Independent charter schools - selection.

Statute text

- (1) On or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b), the state board shall select an applicant to recommend to the local board of education. The state board may select the applicant without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.
- (2) On or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2)

(b), the commissioner shall forward to the local board of education a copy of the selected applicant's response to the request for proposals.

(3) The commissioner or the commissioner's designee shall assist the selected applicant in negotiating an independent charter with the local board of education pursuant to section 22-30.5-306.

History

Source: L. 2000: Entire part added, p. 355, § 8, effective April 10. **L. 2001:** (1) and (2) amended, p. 358, § 23, effective April 16.

22-30.5-306. Independent charter schools - charter - term.

Statute text

(1) The response to the request for proposals forwarded by the commissioner pursuant to section 22-30.5-305 (2) shall constitute the application for a charter pursuant to section 22-30.5-106. Notwithstanding the time limit established in section 22-30.5-107 (1), the local board of education shall consider the application for the upcoming school year.

(2) With the assistance from the commissioner or the commissioner's designee, the selected applicant and the local board of education shall negotiate the terms of the independent charter, which may be different from or in addition to the terms of the response to the request for proposals; except that:

(a) The independent charter school shall be entitled to use the school building in which the public school that received an academic performance rating of "unsatisfactory" was operated. The independent charter school and the local board of education shall negotiate an amount of rent to be paid, which shall be not more than twelve dollars per year, and all other costs for the operation and maintenance of the building and related facilities; and

(b) The term of the independent charter school's charter shall be four years.

(3) (a) On or before August 15 of the year in which the independent charter school is to open, all negotiations between the selected applicant and the local board of education shall be concluded and the local board of education shall accept the application following a public hearing held upon public notice.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), if, during the year prior to the year in which the independent charter school is to open, the school receives an academic performance rating of "low" or better, the local board of education and the applicant may jointly agree to allow the school to remain under the administration of the local board of education.

(4) Except as specifically provided in this part 3, an independent charter school shall be entitled to all of the rights granted by and subject to the obligations imposed by section 22-30.5-104.

(5) (a) If, during the first two years of an independent charter, an independent charter school receives an academic performance rating of "unsatisfactory" pursuant to section 22-7-604 (5), the independent charter school shall not be subject to the provisions of section 22-30.5-303 that would require the establishment of a new independent charter school.

(b) Repealed.

History

Source: L. 2000: Entire part added, p. 355, § 8, effective April 10. **L. 2001:** (3)(a) amended, p. 358, § 24, effective April 16; (2)(a), (3)(b), and (5) amended, p. 1499, § 25, effective June 8. **L. 2002:** (5)(b) repealed, p. 1019, § 29, effective June 1.

22-30.5-307. Independent charter schools - expiration - renewal - conversion.

Statute text

(1) If the academic performance rating of an independent charter school is a "low" or an "unsatisfactory", as determined pursuant to section 22-7-604 (5), during the third year of the school's independent charter, the state board shall issue a new request for proposals pursuant to section 22-30.5-303 (2), and a new independent charter school application process shall commence.

(2) If the academic performance rating of an independent charter school is higher than a "low", as determined pursuant to section 22-7-604 (5), during the third year of the school's independent charter, the parents and legal guardians of the students enrolled at the independent charter school shall decide by majority vote whether, at the expiration of the independent charter school's charter, the school shall apply for a renewal of the independent charter or shall seek to become a regular school of the school district in which the independent charter school is located.

(3) The independent charter school shall arrange for an election to decide which of the options specified in subsection (2) of this section the school shall pursue. The election shall be conducted during the month of September of the fourth school year of the independent charter. All parents and legal guardians of students enrolled in the independent charter school on the date of the election and for at least thirty days prior to the election shall be eligible to vote in the election conducted pursuant to this subsection (3).

(4) If a majority of the parents and legal guardians vote in favor of renewing the independent charter application, the renewal process shall be governed by section 22-30.5-110. If a majority of the parents and legal guardians vote in favor of becoming a regular school of the school district, the independent charter school's charter shall not be renewed, and the operation of the school shall return to the local board of education.

History

Source: L. 2000: Entire part added, p. 356, § 8, effective April 10. **L. 2001:** (1) and (2) amended, p. 1500, § 26, effective June 8.

22-30.5-308. Independent charter schools - employee options - financing options - guidelines.

Statute text

(1) The provisions of section 22-30.5-111 shall apply to employees of an independent charter school.

(2) The provisions of section 22-30.5-112 shall govern the financing of independent charter schools.

History

Source: L. 2000: Entire part added, p. 357, § 8, effective April 10.

PART 4 - CHARTER SCHOOL CAPITAL FACILITIES FINANCING ACT

22-30.5-401. Short title.

Statute text

This part 4 shall be known and may be cited as the "Charter School Facilities Financing Act".

History

Source: L. 2002: Entire part added, p. 1753, § 31, effective June 7.

22-30.5-402. Legislative declaration.

Statute text

(1) The general assembly hereby finds and declares that:

(a) The "Charter Schools Act", part 1 of this article, was enacted by the general assembly without providing a method for funding the capital construction needs of charter schools.

(b) Since the enactment of the "Charter Schools Act", the general assembly has enacted legislation requiring a portion of the moneys in the state education fund to be distributed to charter schools for use in funding capital construction, but such moneys are not sufficient to fully meet the capital construction needs of charter schools.

(c) Pursuant to Senate Bill 01-237, enacted at the first regular session of the sixty-third general assembly, the general assembly declared its intent to establish a method for funding the capital construction needs of charter schools that is equitable, withstands constitutional challenge, and promotes cooperation between charter schools and their authorizing school districts and encouraged representatives of local boards of education, school district administrators, charter schools, the business community, and any other interested persons to meet and develop a comprehensive legislative proposal for funding the capital construction needs of charter schools for consideration by the sixty-third general assembly at the 2002 regular session.

(2) The general assembly further finds and declares that this part 4 is the product of legislative examination and modification of a comprehensive legislative proposal that resulted from meetings of representatives of local boards of education, school district administrators, charter schools, the business community, and any other interested persons and represents a comprehensive legislative proposal for funding the capital construction needs of charter schools that is equitable, withstands constitutional challenge, and promotes cooperation between charter schools and their authorizing school districts.

History

Source: L. 2002: Entire part added, p. 1753, § 31, effective June 7.

22-30.5-403. Definitions.

Statute text

As used in this part 4, unless the context otherwise requires:

(1) "Board of education" or "board" means a school district board of education.

(2) "Budget year" means the period beginning on July 1 of each year and ending on the following June 30 for which a budget for a district is adopted.

(3) "Charter school" means a charter school as described in section 22-30.5-104, and also includes a nonprofit corporation exempt from taxation under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, that owns a facility used for occupancy by pupils enrolled or to be enrolled in a charter school on behalf of a charter school and that was created for the sole purpose of holding title to such facility.

(4) "Charter school capital construction" or "capital construction" means constructing, demolishing, remodeling, financing, or refinancing the acquisition of land, buildings, or facilities used for occupancy by pupils enrolled in or to be enrolled in a charter school. The term also includes actions taken to achieve the purposes set forth in section 22-42-102 (2) (a) (I) to (2) (a) (V).

(5) "Charter school per pupil facilities aid program moneys" means state education fund moneys to be distributed to charter schools for capital construction pursuant to section 22-54-124.

(6) "School district" or "district" means a school district organized and existing pursuant to law; except that the term does not include a junior college district.

(7) "Special mill levy" means a mill levy authorized by section 22-30.5-405.

History

Source: L. 2002: Entire part added, p. 1754, § 31, effective June 7.

22-30.5-404. Needs-based inclusion of charter schools in district bond elections - eligibility - determination of need - allocation of bond revenues.

Statute text

(1) In enacting this section, it is the intent of the general assembly to respect the principle of school district local control and to encourage school districts and charter schools to work together to ensure that the capital construction needs of charter schools can be met. Accordingly, nothing in this section shall be construed to limit in any way the existing ability of any school district to include a charter school in any local bond elections or to otherwise assist a charter school in financing its capital construction needs in any legal manner mutually agreed upon by the school district and the charter school. Each school district that is considering submitting any question of contracting bonded indebtedness to the eligible electors of the district at an upcoming election shall invite each charter school chartered by the district to participate in discussions regarding the possible submission of such a question at the earliest possible time, and each school district is encouraged to voluntarily include funding for the capital construction needs of charter schools in the district's questions of contracting bonded indebtedness without requiring a charter school to comply with the capital construction plan submission process set forth in subsection (3) of this section.

(2) A charter school that has capital construction needs may seek to obtain moneys to fund such capital construction needs by requesting that the board of education of its chartering school district:

(a) Include the charter school's capital construction needs as part of a ballot question for approval of bonded indebtedness to be submitted by the district to the voters of the district; or

(b) Submit a ballot question for approval of a special mill levy to the voters of the district pursuant to section 22-30.5-405.

(3) A charter school that seeks to have its capital construction needs included as part of a ballot question to be submitted by the board of education of its chartering school district to the voters of the district or that seeks to obtain funding for its capital construction needs through the imposition of a special mill levy pursuant to section 22-30.5-405 shall submit a capital construction plan to the board of education of its chartering school district. The plan shall include:

(a) A statement of reasons why the capital construction to be financed by bonded indebtedness or a special mill levy is necessary;

(b) A description of the capital construction to be financed by bonded indebtedness or revenues from a special mill levy;

(c) A description of the architectural, functional, and construction standards that meet applicable state building code requirements and are to be applied to each facility that is the subject of the capital construction project;

(d) An estimate of the total cost of completing the capital construction to be financed by bonded indebtedness or a special mill levy and, if any moneys other than proceeds of bonded indebtedness or a special mill levy and interest earned on such proceeds are to be used to finance the capital construction, a breakdown of the moneys that will be used to finance the capital construction;

(e) An estimate of the amount of time needed to complete the capital construction;

(f) A statement addressing whether construction and renovation, payment of overrun costs, and other capital construction project issues are to be managed by the charter school or the district, with costs for management to be negotiated by the charter school and the district;

(g) A statement of reasons why revenue sources other than bonded indebtedness or a special mill levy are inadequate to fully finance the capital construction; and

(h) A statement of the charter school's preferred means of obtaining moneys.

(4) The board of education of a school district shall review a capital construction plan submitted by a charter school pursuant to subsection (3) of this section and determine whether the charter school has established a need for the capital construction, a need to incur bonded indebtedness or obtain revenues from a special mill levy to finance the capital construction, and a viable plan for the capital construction. The board shall also determine the priority of the charter school capital construction need in relation to the capital construction needs of the entire district. If the board determines that:

(a) The charter school has established capital construction needs, a need to incur bonded indebtedness or obtain revenues from a special mill levy to finance the capital construction, and a viable plan, and the board has prioritized the charter school capital construction needs in relation to the capital construction needs of the entire district, the board shall either include the charter school's capital construction in a ballot question for approval of bonded indebtedness in accordance with subsection (5) of this section or submit a separate special mill levy question to the voters of the district pursuant to section 22-30.5-405. The board shall have the discretion to choose between the bond or special mill levy options and to determine the amount of bonds that will be needed to be sold or the amount of moneys that will be needed to be raised by a special mill levy, but the board shall first consider any information provided or preferences expressed by the charter school.

(b) The charter school has not established capital construction needs, a need to incur bonded indebtedness or obtain revenues from a special mill levy to finance the capital construction, or a viable plan:

(I) The board shall provide the charter school with a written statement specifying its reasons for concluding that the charter school has not established capital construction needs, a need to incur bonded indebtedness or obtain revenues from a special mill levy to finance the capital construction, or a viable plan; and

(II) The board need not include the charter school's capital construction in the district's ballot question for approval of bonded indebtedness but shall submit a special mill levy ballot question to the voters of the district pursuant to section 22-30.5-405 if the charter school requests that a special mill levy be submitted and the charter school agrees to pay all of the costs of submitting the special mill levy ballot question.

(5) If the board of a school district chooses to include a charter school's capital construction in a district ballot question seeking approval of bonded indebtedness:

(a) The board shall consult with the charter school in determining the amount of, and repayment schedule for, the bonds proposed to be sold to finance the charter school's capital construction;

(b) The board and the charter school shall agree to the prioritization of the distribution of bond proceeds between the charter school and any other public school that will receive bond proceeds before submitting the ballot question to the voters of the school district;

(c) The investment and interest earnings on bond proceeds shall be distributed on a pro rata basis to the participating charter school after management fees have been collected; and

(d) The costs of submitting the ballot question shall be borne by both the district and the charter school in proportion to their respective portions of the total bond proceeds to be received unless the board and the charter school agree to a different cost-sharing arrangement. Except as otherwise provided in paragraph (b) of subsection (4) of this section, if the board of the district submits a separate special mill levy ballot question on the same ballot as a ballot question for approval of bonded indebtedness, the costs of submitting the special mill levy ballot question shall be borne as agreed upon by the school district and the charter school.

(6) Notwithstanding any other provision of this section, no bonds shall be issued for the purpose of financing charter school capital construction unless the charter school that is to receive bond proceeds and the district have

entered into a contract specifying that:

(a) The ownership of any capital construction financed by bond revenues shall automatically revert to the district if the charter school loses its charter, fails to pay for the capital construction to be financed by bond revenues, or becomes insolvent and can no longer operate as a charter school; and

(b) The charter school shall not encumber any capital construction financed by bond revenues with any additional debt.

History

Source: L. 2002: Entire part added, p. 1754, § 31, effective June 7.

22-30.5-405. Mill levy for charter school capital construction.

Statute text

(1) With the agreement of all charter schools that will receive the revenues generated by a special mill levy, the board of education of any school district shall, at any time at which a ballot issue arising under section 20 of article X of the state constitution may be decided, submit to the eligible electors of the district the question of whether to impose a mill levy of a stated amount for the purpose of financing capital construction for one or more charter schools chartered by the district, which mill levy shall not exceed one mill in any year or exceed ten years in duration. When a mill levy for more than one year has been approved, the board shall, without calling an election, decrease the amount or duration of the mill levy as necessary to avoid excessive collections as each capital construction project financed by the mill levy is completed. If the board is required to submit the ballot question for a mill levy pursuant to section 22-30.5-404 (4), the board shall consult with all affected charter schools that will receive the revenues generated by the special mill levy before determining the amount and duration of the special mill levy.

(2) Any election called pursuant to subsection (1) of this section shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The costs of the election shall be borne by each charter school that is to receive revenues generated by the mill levy in proportion to the amount of revenues it is to receive unless other cost-sharing arrangements are agreed to by the charter schools and, if the school district submitting the ballot question agrees to bear any of the costs of the election and is not prohibited from bearing such costs by section 22-30.5-404 (4) (b), the district.

(3) If the majority of votes cast at an election held pursuant to this section are in favor of the question, the mill levy of the district for charter school capital construction shall be as so approved by the eligible electors of the district and taxes shall be levied as so approved.

(4) Notwithstanding the provisions of section 22-30.5-404 (4) and any other provisions of this section, no mill levy shall be imposed pursuant to this section to benefit a charter school unless the charter school and the district have entered into a contract specifying to whom the ownership of any capital construction financed by the mill levy shall revert if the charter school loses its charter, fails to pay for the capital construction to be financed by revenues from the mill levy, or becomes insolvent and can no longer operate as a charter school.

(5) A school district may impose a total mill levy pursuant to this section in excess of one mill in any year if the voters of the district approve multiple ballot questions, but the mill levy imposed pursuant to any single ballot question submitted pursuant to this section shall not exceed one mill in any year as specified in subsection (1) of this section. The imposition of a second or subsequent mill levy pursuant to this section shall not affect the rights of any charter school to the revenues generated by any preexisting special mill levy.

History

Source: L. 2002: Entire part added, p. 1757, § 31, effective June 7.

22-30.5-406. Direct payment of charter school bonds by the state treasurer and school districts.

Statute text

(1) (a) For the purpose of enhancing the ability of a charter school to obtain favorable financing terms on bonds issued on behalf of the charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction, a charter school that is entitled to receive moneys from the state public school fund pursuant to part 1 of this article may request that the state treasurer make direct payments of principal and interest on the bonds on behalf of the charter school. The charter school shall specify the amount of each payment to be made.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), if the state treasurer concludes that the amount of moneys from the state public school fund that a charter school will receive pursuant to part 1 of this article for any given budget year will be less than the amount of the payments specified by the charter school pursuant to paragraph (a) of this subsection (1) that will be due during the budget year, the state treasurer shall not agree to make direct payments on behalf of the charter school.

(c) The state treasurer shall withhold the amount of any direct payments made on behalf of a charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the state treasurer and the charter school from the payments to the chartering district of the state share of the district's total program made pursuant to article 54 of this title. The state treasurer shall notify the chief financial officers of the chartering district and the charter school of any amount of moneys withheld and the chartering district shall reduce the amount of funding it provides to the charter school by said amount. Any administrative costs withheld by the state treasurer pursuant to this paragraph (c) shall be credited to the charter school financing administrative cash fund, which fund is hereby created. Moneys in the fund shall be continuously appropriated to the state treasurer for the direct and indirect costs of the administration of this section. Moneys in the charter school financing administrative cash fund shall remain in the fund and shall not revert to the general fund at the end of any fiscal year.

(d) The state treasurer shall establish the procedures necessary to implement this subsection (1) and may promulgate rules for that purpose. Any rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(e) This subsection (1) shall not be construed to require the state to continue the payment of state assistance to any school district or to limit or prohibit the state from repealing or amending any law relating to the amount of state assistance to school districts or the manner or timing of the payment of such assistance. This subsection (1) shall not be construed to create a debt of the state or any state financial obligation whatsoever with respect to any bonds issued on behalf of a charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction within the meaning of any state constitutional provision or to create any liability except to the extent provided in this subsection (1).

(2) (a) If the state treasurer does not agree to make direct payments of principal and interest on bonds on behalf of a charter school pursuant to subsection (1) of this section because the charter school is not entitled to receive moneys from the state public school fund pursuant to part 1 of this article or because the state treasurer has concluded that the amount of moneys from the state public school fund that the charter school will receive pursuant to part 1 of this article for any given budget year will be less than the amount of the direct payment specified by the charter school that will be due during the budget year, the charter school may request that its chartering district make direct payments of principal and interest on the bonds on behalf of the charter school. The charter school shall specify the amount of each payment to be made.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the board of education of a chartering district concludes that the total amount of moneys that a charter school will receive for any given budget year from the district pursuant to the operating contract between the district and the charter school will be less than the amount of the payments specified by the charter school pursuant to paragraph (a) of this subsection (2) that will be due during the budget year, the chartering district shall not agree to make direct payments on behalf of the charter school.

(c) A chartering district shall withhold the amount of any direct payments made on behalf of a charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the chartering district and the charter school from the funding provided by the district to the charter school pursuant to part 1 of this article.

(d) This subsection (2) shall not be construed to create a debt of any chartering district or any district obligation whatsoever with respect to any lease agreement or installment purchase agreement entered into by a charter school within the meaning of any state constitutional provision or to create any liability except to the extent provided in this subsection (2).

History

Source: L. 2002: Entire part added, p. 1758, § 31, effective June 7.

22-30.5-407. Charter school debt reserve fund - creation - use of fund moneys - legislative declaration.

Statute text

(1) The general assembly hereby finds and declares that:

(a) The charter school debt reserve fund created by this section is intended to enhance the ability of any charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., to obtain such financing on favorable terms by providing a source of moneys that can be used to make bond payments if the charter school fails to make such payments.

(b) It is appropriate for state education fund moneys to be appropriated to the charter school debt reserve fund and it is also appropriate for those charter schools that receive more favorable financing terms due to the existence of the charter school debt reserve fund to pay a portion of their resulting savings to the charter school debt reserve fund and for all charter schools to bear the risk of having charter school per pupil facilities aid program moneys withheld to replenish the charter school debt reserve fund in the event that moneys from the charter school debt reserve fund are expended to make bond payments.

(2) (a) There is hereby created in the state treasury the charter school debt reserve fund. The fund shall consist of the following moneys:

(I) One million dollars that are hereby appropriated from the state education fund to the charter school debt reserve fund on July 1, 2002;

(II) Moneys credited to the charter school interest savings account of the fund pursuant to subsection (3) of this section; and

(III) Moneys transferred from the state education fund to the charter school debt reserve fund pursuant to paragraph (d) of subsection (4) of this section.

(b) There is hereby created within the charter school debt reserve fund the charter school interest savings account. The account shall consist of moneys credited to the account by the state treasurer pursuant to subsection (3) of this section and any interest and income derived from the deposit and investment of moneys in the account.

(c) All interest and income derived from the deposit and investment of moneys in the charter school debt reserve fund shall be credited to the state education fund; except that all interest and income derived from the deposit and investment of moneys in the charter school interest savings account shall be credited to the account in accordance with paragraph (b) of this subsection (2). At the end of any fiscal year, all unexpended and unencumbered moneys in the charter school debt reserve fund and the account shall remain in the fund and the account respectively.

(d) All moneys credited to the charter school debt reserve fund or expended from the fund, other than moneys credited to or expended from the charter school interest savings account, are moneys originally credited to the

state education fund and are therefore, in accordance with section 17 (3) of article IX of the state constitution and section 22-55-103 (5), exempt from:

(I) The limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S.; and

(II) The limitation on local government fiscal year spending set forth in section 20 (7) (b) of article X of the state constitution.

(3) A charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., and that also chooses to rely upon the existence of the charter school debt reserve fund to obtain more favorable financing terms shall pay to the state treasurer, at the time any bond payment is due, an amount equal to ten percent of the reduction in the amount of the payment resulting from the more favorable financing terms. At the time the bonds are issued, the charter school shall obtain and provide to the state treasurer sufficient documentation of the savings resulting from the charter school's ability to obtain more favorable financing terms by relying upon the existence of the charter school debt reserve fund. The state treasurer shall credit any payment received pursuant to this subsection (3) to the charter school interest savings account.

(4) (a) Moneys in the charter school debt reserve fund are hereby continuously appropriated to the state treasurer, who shall expend such moneys solely for the purpose of paying principal and interest on bonds issued on behalf of a charter school by the Colorado educational and cultural facilities authority and only if:

(I) The state treasurer has been notified and has confirmed, in accordance with paragraph (b) of this subsection (4), that the charter school has expended all moneys in its own debt service reserve fund or account that has been funded with proceeds derived from the issuance of the bonds and is unable to make bond payments; and

(II) The charter school has relied upon the existence of the charter school debt reserve fund to obtain more favorable financing terms for the bonds and has made payments to the state treasurer as required by subsection (3) of this section.

(b) Whenever the trustee responsible for making payments to the holders of any bonds issued on behalf of a charter school by the Colorado educational and cultural facilities authority for which the charter school has obtained more favorable financing terms by relying on the existence of the charter school debt reserve fund has not received payment of principal or interest on the bonds on the business day immediately prior to the date on which such payment is due, the trustee shall so notify the state treasurer and the charter school by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the charter school and determine whether the charter school will make the payment by the date on which it is due and, if the state treasurer confirms that the charter school will not make the payment, the state treasurer shall make the payment.

(c) The state treasurer shall expend all moneys in the charter school interest savings account before expending any other moneys in the charter school debt reserve fund.

(d) If the state treasurer expends moneys from the portion of the charter school debt reserve fund that is not the charter school interest savings account, the state treasurer shall withhold charter school per pupil facilities aid program moneys to the extent necessary to restore that portion of the charter school debt reserve fund, by the transfer of all withheld amounts from the state education fund to that portion of the charter school debt reserve fund, to a one million dollar balance in accordance with the following requirements:

(I) Each charter school that has relied upon the existence of the charter school debt reserve fund to obtain more favorable financing terms for bonds issued on its behalf by the Colorado educational and cultural facilities authority shall have its payments reduced by the same percentage and by a maximum of fifty percent.

(II) If, in any given fiscal year, the state treasurer determines that after withholding of the maximum amount of charter school per pupil facilities aid program moneys that may be withheld pursuant to subparagraph (I) of this

paragraph (d) the portion of the charter school debt reserve fund that is not the charter school interest savings account will not be restored to a one million dollar balance, each charter school that has not relied upon the existence of the charter school debt reserve fund to obtain more favorable financing terms for bonds issued by the Colorado educational and cultural facilities authority shall have its payment reduced by the same percentage and by a maximum of ten percent.

(5) This section shall not be construed to create any state debt, to require the state to make any bond payments on behalf of any charter school from any source of state moneys other than the charter school debt reserve fund, or to require the state to fully pay off any outstanding bonds of a charter school that cannot make scheduled bond payments.

History

Source: L. 2002: Entire part added, p. 1760, § 31, effective June 7.

22-30.5-408. Replenishment of qualified charter school debt service reserve funds.

Statute text

(1) As used in this section:

(a) "Investment grade" means debt obligations that are rated in one of the four highest investment rating categories by one or more nationally recognized rating agencies.

(b) "Qualified charter school" means a charter school whose debt is rated at least investment grade by a nationally recognized rating agency prior to the issuance of any qualified charter school bonds on behalf of the charter school by the Colorado educational and cultural facilities authority pursuant to the "Colorado Educational and Cultural Facilities Authority Act", article 15 of title 23, C.R.S.

(c) "Qualified charter school bonds" means bonds that are issued by the Colorado educational and cultural facilities authority for the purpose of financing a facility to be used for occupancy by pupils enrolled in a charter school.

(d) "Qualified charter school debt service reserve fund requirement" means the level of funding required for a qualified charter school debt service reserve fund as specified in the trust indenture or resolution pursuant to which qualified charter school bonds have been issued.

(e) "Qualified charter school debt service reserve requirement" means a reasonably required debt service reserve fund or account that has been funded with proceeds derived from the issuance of qualified charter school bonds.

(f) "Rating agency" means any nationally recognized statistical rating organization as defined under rule 2a-7 of the "Securities Exchange Act of 1934", as amended, 17 CFR 270.2a-7 (a) (17).

(2) (a) No later than January 15, 2003, and no later than January 15 of each succeeding year, if the Colorado educational and cultural facilities authority has issued qualified charter school bonds on behalf of any charter school that has failed during the prior calendar year to restore its qualified charter school debt service reserve fund to the applicable qualified charter school debt service reserve fund requirement, the board of directors of the Colorado educational and cultural facilities authority shall submit to the governor a certificate certifying any amount of moneys required to restore the qualified charter school debt service reserve fund to the applicable qualified charter school debt service reserve fund requirement. The governor may, in the governor's discretion, submit a request for appropriations in an amount sufficient to restore any or all qualified charter school debt reserve funds to their respective qualified charter school debt service reserve fund requirements and the general assembly may, but shall not be required to, appropriate moneys for said purpose. If, in its sole discretion, the general assembly appropriates any moneys for said purpose, the aggregate amount of moneys that may be appropriated for said purpose shall not exceed two hundred million dollars.

(b) Any moneys appropriated for the purpose of restoring any qualified charter school debt service reserve fund to its qualified charter school debt service reserve fund requirement shall be deposited into the applicable qualified charter school debt service reserve fund.

(3) This section shall not be construed to create any debt of the state or any state financial obligation whatsoever within the meaning of any state constitutional provision or to create any state liability whatsoever.

History

Source: L. 2002: Entire part added, p. 1763, § 31, effective June 7.

22-30.5-409. Annual reports on bonds issued on behalf of charter schools - review by state auditor.

Statute text

(1) Prior to January 30, 2003, and prior to January 30 of each year thereafter, the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., shall submit a report to the state auditor that includes information concerning the issuance of qualified charter school bonds, as defined in section 22-30.5-408 (1) (c), that have resulted in charter schools obtaining more favorable financing terms by reliance on the existence of the charter school debt reserve fund created in section 22-30.5-407 (2) (a) and the potential replenishment of the charter school debt reserve fund pursuant to section 22-30.5-408 (2) (a). Such report shall include, but need not be limited to:

(a) The total amount of such qualified charter school bonds issued during the most recently completed calendar year;

(b) The charter schools on whose behalf such qualified charter school bonds were issued;

(c) An itemization of the charter school facilities for which such qualified charter school bonds were issued, the total cost of each such charter school facility, and the percentage of the total cost of each such facility to be paid from the proceeds obtained from the issuance of such qualified charter school bonds;

(d) The investment ratings of such qualified charter school bonds;

(e) The total amount of net and gross proceeds obtained from the issuance of such qualified charter school bonds during the most recently completed calendar year;

(f) The total amount of such outstanding qualified charter school bonds;

(g) The total amount of annual installments of principal and interest on such qualified charter school bonds that were scheduled to be paid during the most recently completed calendar year, the total amount of such annual installments actually paid during the most recently completed calendar year, and the total amount of such annual installments scheduled to be paid during the current calendar year and future calendar years;

(h) The total amount, if any, of moneys expended from each charter school's own debt service reserve fund or account during the most recently completed calendar year for the purpose of paying principal and interest on such qualified charter school bonds; and

(i) The total amount, if any, of moneys expended from the charter school debt reserve fund during the most recently completed calendar year for the purpose of paying principal and interest on such qualified charter school bonds.

(2) No later than March 1, 2002, and no later than March 1 each year thereafter, the state auditor shall examine the report submitted in accordance with subsection (1) of this section and, upon completion of such review, shall report any findings regarding said submitted report to the education committees of the senate and the house of representatives, the legislative audit committee, the capital development committee, the joint budget committee, and the department of education.

History

Source: L. 2002: Entire part added, p. 1764, § 31, effective June 7.

For additional information please contact the Schools of Choice Unit at 303.866.6971.

- See more at: <http://www.cde.state.co.us/cdechart/chact#sthash.CPG0CEG6.dpuf>