

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Education.

HB21-1295 be amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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