

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 21-0764.02 Julie Pelegrin x2700

**HOUSE BILL 21-1295**

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**HOUSE SPONSORSHIP**

**Bacon**, Kipp, Woodrow, Gonzales-Gutierrez, Weissman, Jodeh, Sirota, Amabile, Kennedy, Cutter, Bird, Duran, Benavidez, Froelich

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Education

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**A BILL FOR AN ACT**

101      **CONCERNING CREATION OF A REBUTTABLE PRESUMPTION IN FAVOR OF**  
102                    **A CHARTER SCHOOL AUTHORIZER'S DECISIONS CONCERNING A**  
103                    **CHARTER SCHOOL.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Under current law, an entity may appeal a decision by a school district board of education (local board) concerning a charter school to the state board of education (state board). The state board reviews the decision to determine whether it was contrary to the best interests of the students, school district, or community.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

The bill creates a rebuttable presumption that a local board's decision was in the best interests of the students, school district, or community if the decision was based on at least one of several specified considerations. A person bringing an appeal may overcome the presumption by a preponderance of the evidence demonstrating that the decision was not based on at least one of those considerations.

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

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

4 **22-30.5-108. Appeal - standard of review - procedures.**

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

16 (b) **IN AN APPEAL BROUGHT PURSUANT TO THIS SECTION, THERE IS**  
17 **A REBUTTABLE PRESUMPTION THAT THE DECISION OF THE LOCAL BOARD**  
18 **OF EDUCATION WAS IN THE BEST INTERESTS OF THE PUPILS, SCHOOL**  
19 **DISTRICT, OR COMMUNITY SO LONG AS THE DECISION WAS BASED ON ONE**  
20 **OR MORE OF THE FOLLOWING CONSIDERATIONS:**

21 (I) **THE LIKELIHOOD OF A CONFLICT WITH THE LOCAL BOARD OF**  
22 **EDUCATION'S EXISTING LONG-TERM PLANS FOR THE SCHOOL DISTRICT;**

1 (II) STUDENT ENROLLMENT AMONG THE SCHOOLS OF THE SCHOOL  
2 DISTRICT; OR

3 (III) SCHOOL DISTRICT FINANCIAL CONSIDERATIONS.

4 (c) The notice ~~shall~~ OF APPEAL SUBMITTED PURSUANT TO  
5 SUBSECTION (2)(a) OF THIS SECTION MUST include a brief statement of the  
6 reasons the appealing person contends the local board of education's  
7 denial of a charter application, ~~or~~ nonrenewal or revocation of a charter,  
8 or imposition of conditions on a charter applicant or charter school was  
9 ~~in error~~ NOT BASED ON THE CONSIDERATIONS SPECIFIED IN SUBSECTION  
10 (2)(b) OF THIS SECTION. THE PERSON BRINGING THE APPEAL MAY REBUT  
11 THE PRESUMPTION DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION BY  
12 DEMONSTRATING BY A PREPONDERANCE OF THE EVIDENCE THAT THE  
13 DECISION OF THE LOCAL BOARD OF EDUCATION WAS NOT BASED ON THE  
14 CONSIDERATIONS SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION.

15 (3) If the notice of appeal, or the motion to review by the state  
16 board, relates to a local ~~board's~~ BOARD OF EDUCATION'S decision to deny  
17 a charter application or to refuse to renew or to revoke a charter or to a  
18 local ~~board's~~ BOARD OF EDUCATION'S unilateral imposition of conditions  
19 that are unacceptable to the charter applicant or the charter school, the  
20 appeal and review process ~~shall be~~ IS as follows:

21 (a) Within sixty days after receipt of the notice of appeal or the  
22 making of a motion to review by the state board and after reasonable  
23 public notice, the state board shall review the decision of the local board  
24 of education and make its findings. If the state board finds that THE  
25 PERSON BRINGING THE APPEAL SUBMITTED SUFFICIENT EVIDENCE TO  
26 REBUT THE PRESUMPTION, AS DESCRIBED IN SUBSECTION (2) OF THIS  
27 SECTION, THAT the local ~~board's~~ BOARD OF EDUCATION'S decision was

1 ~~contrary to~~ IN the best interests of the pupils, school district, or  
2 community, the state board shall remand ~~such~~ THE decision to the local  
3 board of education with written instructions for reconsideration ~~thereof~~.  
4 ~~Said~~ OF THE DECISION. THE instructions ~~shall~~ MUST include specific  
5 recommendations concerning the matters requiring reconsideration.

6 (d) Within thirty days ~~following~~ AFTER receipt of the second  
7 notice of appeal or the making of a motion for a second review by the  
8 state board and after reasonable public notice, the state board, at a public  
9 hearing, shall determine whether THE PERSON BRINGING THE APPEAL  
10 SUBMITTED SUFFICIENT EVIDENCE TO REBUT THE PRESUMPTION, AS  
11 DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THAT the final decision  
12 of the local board of education was ~~contrary to~~ IN the best interests of the  
13 pupils, school district, or community. If such a finding is made, the state  
14 board shall remand ~~such~~ THE final decision to the ~~board~~ LOCAL BOARD OF  
15 EDUCATION with instructions to approve the charter application, ~~or~~ to  
16 renew or reinstate the charter, or to approve or disapprove the conditions  
17 imposed on the charter applicant or the charter school. The decision of the  
18 state board ~~shall be~~ IS final and not subject to appeal.

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