

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0361.01 Nicole Myers

SENATE BILL 10-097

SENATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

Gagliardi,

Senate Committees

Local Government and Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING THE METHOD BY WHICH A COUNTY HOME RULE CHARTER
102 COMMISSION IS CREATED FOR THE PURPOSE OF PROPOSING A
103 HOME RULE CHARTER.

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://www.leg.state.co.us/billsummaries>.)

The bill modifies the method by which a county home rule charter commission (commission) is created for the purpose of proposing a home rule charter (charter).

Section 1 of the bill eliminates the procedures for the election of

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

commission members by the electors of the county as is currently required and instead requires the members of a commission to be appointed by the board of county commissioners (board). Section 1 requires the board to hold a public hearing in each commissioner district prior to establishing a commission to determine whether a commission should be formed. Section 1 also requires the board to appoint the commission at a public hearing held at least 390 days before the election at which the charter may be considered. Finally, section 1 directs the board to publish notice of the hearing to appoint the commission 40 days in advance of the hearing. **Section 2** of the bill repeals the provisions regarding the election of the commission.

Section 3 of the bill makes changes related to the development of a proposed charter by the commission. Section 3 requires a commission to present a proposed charter to the board at least 150 days before the election at which the proposed charter may be considered, rather than within 240 days after the commission's initial meeting as is currently required. Current law allows a commission to make a second attempt to present a proposed charter to the board if it fails in its first attempt to do so. Section 3 limits a commission to only one attempt before it is dissolved. Finally, section 3 eliminates a board's authority to establish a mill levy for the purpose of creating a charter.

Section 4 of the bill changes the procedures for accepting or rejecting a proposed charter. Current law requires that, upon submission of a proposed charter to a board, the board refers the charter to the registered electors of the county. Section 4 requires the board, upon submission of the charter, to hold a hearing at which the board shall revise, reject, or accept the charter and determine whether to refer the charter to the electors of the county at a coordinated or general election. If the board approves the charter, section 4 requires the board to refer the charter to the electors at least 100 days prior to the election at which it is to be considered. Section 4 also requires that the board, at least 60 days before the election, publish a notice containing a statement that the proposed charter is available for review and inspection by the public on the county's web site and at a designated public office in the county. Finally, section 4 removes certain provisions related to the submission of a revised proposed charter by a commission in the event that a charter is rejected by the voters and eliminates the requirement that a board adopt a resolution regarding the dissolution of a commission after the voters accept or reject a proposed charter.

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

2 **SECTION 1.** 30-11-502, Colorado Revised Statutes, is amended

1 to read:

2 **30-11-502. Charter commission.** (1) PRIOR TO ESTABLISHING A
3 CHARTER COMMISSION, THE BOARD OF COUNTY COMMISSIONERS SHALL
4 HOLD A PUBLIC HEARING IN EACH COMMISSIONER DISTRICT TO DETERMINE
5 WHETHER A CHARTER COMMISSION SHOULD BE FORMED. Following the
6 adoption of a resolution by the board of county commissioners TO
7 ESTABLISH A CHARTER COMMISSION, or upon the submission of a petition
8 of ~~not less than~~ AT LEAST five percent of the registered electors of the
9 county requesting that a charter commission be established, the board of
10 county commissioners shall ~~call an election to be held on or before the~~
11 ~~next general election for the purpose of determining whether or not a~~
12 ~~charter commission shall be elected. The board of county commissioners~~
13 ~~shall publish notice of the election at least sixty days prior to the election~~
14 HOLD A PUBLIC HEARING TO APPOINT A CHARTER COMMISSION. SUCH
15 HEARING SHALL BE HELD AT LEAST THREE HUNDRED NINETY DAYS PRIOR
16 TO THE COORDINATED ELECTION OR GENERAL ELECTION AT WHICH THE
17 CHARTER MAY BE CONSIDERED. IN APPOINTING THE CHARTER
18 COMMISSION, THE BOARD OF COUNTY COMMISSIONERS SHALL GIVE
19 CONSIDERATION AND PREFERENCE TO THOSE POTENTIAL APPOINTEES WHO
20 WOULD PROVIDE BROAD POLITICAL AND GEOGRAPHIC REPRESENTATION TO
21 THE CHARTER COMMISSION IF APPOINTED. THE BOARD OF COUNTY
22 COMMISSIONERS SHALL PUBLISH NOTICE OF THE PUBLIC HEARING IN A
23 NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY AT LEAST
24 FORTY DAYS PRIOR TO THE HEARING.

25 (2) (a) ~~At least sixty days before the election provided for in~~
26 ~~section 30-11-503, the board of county commissioners shall divide the~~
27 ~~county into three compact districts; such districts to be as nearly equal in~~

1 ~~population as possible, for the purpose of electing charter commission~~
2 ~~members by district according to subsection (4) of this section.~~

3 (b) ~~If the provisions of paragraph (a) of this subsection (2) are not~~
4 ~~met before sixty days prior to the election provided for in section~~
5 ~~30-11-503, no member of the board of county commissioners of the~~
6 ~~county shall thereafter be entitled to or earn any compensation for his~~
7 ~~services or receive any payment for salary or expenses, nor shall any~~
8 ~~member be eligible to succeed himself in office.~~

9 (3) (a) The charter commission shall consist of the following
10 members: ~~and be elected from the district as follows:~~

11 (I) In counties having a population of less than fifty thousand,
12 eleven members, three of whom shall reside in and be ~~elected~~ APPOINTED
13 from each commissioner district within the county and two to be ~~elected~~
14 APPOINTED at large;

15 (II) In counties having a population of fifty thousand or more,
16 twenty-one members, six of whom shall reside in and be ~~elected~~
17 APPOINTED from each commissioner district and three to be ~~elected~~
18 APPOINTED at large.

19 (b) Eligibility to serve on the commission shall extend to all
20 qualified electors of the county. Any vacancy in the charter commission
21 shall be filled by majority vote of the members of the charter commission.

22 (4) Candidates for the charter commission shall be nominated by
23 filing AN APPLICATION with the ~~county clerk and recorder, on forms~~
24 ~~supplied by the county clerk and recorder, a nomination petition signed~~
25 ~~by at least twenty-five registered electors of the county and a statement~~
26 ~~by the candidate consenting to serve if elected. Said petition and~~
27 ~~statement must~~ BOARD OF COUNTY COMMISSIONERS. THE APPLICATION

1 SHALL be filed within thirty days after publication of the election notice
2 ~~A second notice of the election shall be published by the said~~
3 ~~commissioners and include the names of candidates for the charter~~
4 ~~commission~~ OF PUBLIC HEARING TO APPOINT THE CHARTER COMMISSION.

5 **SECTION 2. Repeal.** 30-11-503, Colorado Revised Statutes, is
6 repealed as follows:

7 **30-11-503. Election on formation of charter convention and**
8 **designation of members.** ~~(1) At the election, voters shall cast ballots for~~
9 ~~or against forming the charter commission. If a majority of the registered~~
10 ~~electors voting thereon vote for forming the charter commission, a~~
11 ~~commission to frame a charter shall be deemed formed.~~

12 ~~(2) At the election voters shall also cast ballots for electing the~~
13 ~~requisite number of charter commission members. Those candidates~~
14 ~~receiving the highest number of votes shall be elected. In the event of tie~~
15 ~~votes for the last available vacancy, the clerk shall determine by lot the~~
16 ~~person who shall be elected.~~

17 **SECTION 3.** 30-11-504, Colorado Revised Statutes, is amended
18 to read:

19 **30-11-504. Development of proposed charter.** (1) A charter
20 commission ~~elected~~ APPOINTED pursuant to ~~section 30-11-503~~ SECTION
21 30-11-502 shall meet on a date designated by the board of county
22 commissioners for the purposes of organization within thirty days after
23 the ~~election~~ APPOINTMENT OF THE COMMISSION. The charter commission
24 shall elect a chairman and a vice-chairman from among its membership.
25 Further meetings of the commission shall be held upon call of the
26 chairman or a majority of the members of the commission. All meetings
27 shall be open to the public. A majority of the charter commission shall

1 constitute a quorum. The commission may adopt such other rules for its
2 operations and proceedings as it deems necessary or desirable. Members
3 of the commission shall receive no compensation but shall be reimbursed
4 for necessary expenses pursuant to law.

5 (2) The charter commission shall conduct a comprehensive study
6 of the operation of county government and of the ways in which the
7 conduct of county government might be improved or reorganized. ~~Within~~
8 ~~two hundred forty days after its initial meeting~~ AT LEAST ONE HUNDRED
9 FIFTY DAYS PRIOR TO THE COORDINATED ELECTION OR GENERAL ELECTION
10 AT WHICH THE PROPOSED CHARTER MAY BE CONSIDERED, the charter
11 commission shall present to the board of county commissioners a
12 proposed charter, upon which it shall have held three public hearings, at
13 ~~intervals of not less than fifteen nor more than thirty days,~~ and notice of
14 these public hearings shall be published ~~not less than~~ AT LEAST fifteen
15 days prior to each public hearing in a newspaper of general circulation
16 within the county. Within ten days of the last of such public hearings, the
17 charter commission shall incorporate any amendments it deems desirable.
18 A majority vote of the members of the charter commission in favor of a
19 proposed charter for the county shall be required to forward said charter
20 to the board of county commissioners for the setting of a referendum
21 election as provided in section 30-11-505.

22 (3) ~~In the event that the charter commission fails to present a~~
23 ~~charter to the board of county commissioners after the specified time, the~~
24 ~~charter commission shall recess for a period of not less than thirty days~~
25 ~~nor more than ninety days. The board of county commissioners shall then~~
26 ~~call the charter commission to begin a second attempt to present a charter~~
27 ~~which shall be presented within a period of ninety days. In the event a~~

1 ~~second attempt~~ IF THE CHARTER COMMISSION FAILS to present a charter to
2 the board of county commissioners, ~~also fails~~, the charter commission
3 shall be excused from its duties and dissolved by the board. All records,
4 files, and proceedings of the charter commission shall be submitted to the
5 board of county commissioners for storage and safekeeping as a public
6 record. A new charter commission shall be ~~elected~~ APPOINTED on
7 dissolution as provided in section 30-11-502.

8 (4) The board of county commissioners is authorized to establish
9 a special county charter fund ~~and establish a mill levy therefor~~ when the
10 charter commission has submitted a preliminary budget approved by the
11 board of county commissioners. The expenses of the charter commission
12 shall be verified by a majority vote of the commission and shall be
13 submitted to the board of county commissioners for approval, which
14 approval shall not be unreasonably withheld. If approved, payment shall
15 be made from the special county charter fund. The charter commission
16 may employ a staff, may consult and retain experts, and may purchase,
17 lease, or otherwise provide for such supplies, materials, equipment, and
18 facilities as it deems necessary or desirable. The board of county
19 commissioners may accept funds, grants, gifts, and services for the
20 charter commission from the state of Colorado, the government of the
21 United States or any of its agencies, or other sources, public or private.

22 **SECTION 4.** 30-11-505 (1), (3), and (4), Colorado Revised
23 Statutes, are amended to read:

24 **30-11-505. Referendum election on charter - adoption or**
25 **rejection.** (1) Upon submission to the board of county commissioners
26 of a charter by the charter commission, the board of county
27 commissioners shall ~~call a special election, to be paid for from the special~~

1 county charter fund and held pursuant to the Colorado election laws. The
2 special election shall be held not more than ninety days nor less than
3 forty-five days after the board of county commissioners receives the
4 proposed charter; however, if a coordinated election or general election
5 is to be held within sixty days after the board of county commissioners
6 receives the proposed charter, the special election shall be held as part of
7 the HOLD A HEARING AFTER AT LEAST FIFTEEN DAYS' NOTICE IN A
8 NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY. AT THE
9 HEARING, THE BOARD OF COUNTY COMMISSIONERS SHALL REVISE, REJECT,
10 OR ACCEPT THE CHARTER. UPON FINAL ACCEPTANCE OF THE CHARTER BY
11 THE BOARD OF COUNTY COMMISSIONERS, THE BOARD SHALL REFER THE
12 CHARTER TO THE REGISTERED ELECTORS AT A coordinated election or
13 general election. The board of county commissioners, shall publish in a
14 newspaper of general circulation within the county a complete text of the
15 proposed charter not less than ten days prior to the special election IF
16 REFERRING THE PROPOSED CHARTER, SHALL REFER THE PROPOSED
17 CHARTER TO THE REGISTERED ELECTORS AT LEAST ONE HUNDRED DAYS
18 PRIOR TO SUCH ELECTION OR AT AN EARLIER TIME AS MAY BE REQUIRED BY
19 THE APPLICABLE ELECTION OFFICIAL. IF THE PROPOSED CHARTER IS
20 REFERRED TO THE REGISTERED ELECTORS, THE BOARD OF COUNTY
21 COMMISSIONERS SHALL PUBLISH, AT LEAST SIXTY DAYS PRIOR TO THE
22 ELECTION, A NOTICE CONTAINING A STATEMENT THAT THE PROPOSED
23 CHARTER IS AVAILABLE FOR REVIEW AND INSPECTION BY THE PUBLIC ON
24 THE COUNTY'S WEB SITE AND AT A DESIGNATED PUBLIC OFFICE LOCATED
25 WITHIN THE BOUNDARIES OF THE COUNTY. THE NOTICE SHALL BE
26 PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE
27 COUNTY. At the special election a referendum of the registered electors

1 of the county shall be held to determine ~~the question of~~ whether the
2 proposed charter as submitted shall be adopted. ~~Notice of the election on~~
3 ~~the proposed charter shall be published at least thirty days prior to the~~
4 ~~election.~~

5 (3) If a majority of the voters disapprove the proposed charter, the
6 charter commission may proceed to prepare a revised proposed charter in
7 the same manner provided for preparation, submission, and election on
8 the proposed charter. ~~The election on any revised proposed charter must~~
9 ~~be held not less than ninety nor more than one hundred eighty days after~~
10 ~~the election rejecting the proposed charter. The charter commission shall~~
11 ~~not submit more than one proposed charter and one revised proposed~~
12 ~~charter. If a majority of the voters disapprove the proposed charter, or the~~
13 ~~revised proposed charter, if one is submitted, no new referendum may be~~
14 ~~held during the next twelve months following the date of the last~~
15 ~~disapproval.~~

16 (4) Upon acceptance or rejection of the proposed charter or the
17 revised proposed charter, if one is submitted by the registered electors of
18 the county, the charter commission shall be dissolved, and all property of
19 the charter commission shall thereupon become the property of the
20 county. ~~and the board of county commissioners shall adopt a resolution~~
21 ~~to that effect.~~

22 **SECTION 5. Act subject to petition - effective date.** This act
23 shall take effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part shall not take effect
2 unless approved by the people at the general election to be held in
3 November 2010 and shall take effect on the date of the official
4 declaration of the vote thereon by the governor.