

OCTOBER 2015

2015 State Legislative Session Highlights for Public Charter Schools

By Todd Ziebarth, Senior Vice President for State Advocacy and Support

2015 has proved to be another active year for public charter school legislation across the country. This report provides a summary of the state legislative highlights for public charter schools during the 2015 state legislative sessions. To detail the plethora of activity that's taking place, we have organized the summary into the following categories: no-law states, growth, authorizing and accountability, funding and facilities, and other issues. We have tried to be as comprehensive as possible, but please let us know if we've missed some important developments in your state.

In analyzing all of the activity this year, some of the biggest takeaways include the following:

- **Alabama** became the 43rd state to enact a public charter school law.
- **Connecticut** defeated a proposed two-year moratorium on the opening of new charter schools, secured a 25 percent increase in the number of public charter school seats, and strengthened school accountability.
- **Indiana** increased school autonomy, strengthened school and authorizer accountability, and created and funded a \$20 million performance-based facilities grant program and a \$50 million performance-based loan program.
- **Nevada** improved categorical and bond funding opportunities for charters; provided \$10 million to match private philanthropy in establishing a fund to recruit best-in-class national charter management organizations to Nevada and to help develop local human capital, modified its automatic closure requirements for low-performing public charter schools, created the Nevada Achievement School District to take over chronically low-performing public schools and select high-performing or high-potential charter management organizations to convert the schools to charter schools, and increased teacher certification flexibility.
- **New York** increased teacher certification flexibility and made some important adjustments to its cap to allow more public charter school growth in New York City and more charter-authorizing activity by the State University of New York.
- **Ohio** increased per-pupil funding for charter facilities by \$50 per year (which takes the total to \$150 per pupil in fiscal year 2016 and \$200 per pupil in fiscal year 2017), created a \$25 million "Community School Classroom Facilities" grant program for high-performing charter schools, and expanded the ability of traditional districts to levy taxes for charter schools that are sponsored by "exemplary" sponsors.
- **Oklahoma** overhauled its law by, among other things, allowing charter schools statewide, strengthening school and authorizer accountability, and allowing charter schools to borrow money.
- **West Virginia** came very close to becoming the 44th state to enact a charter law but came up just short. Look for the state to hopefully get across the finish line in 2016.

- **Wisconsin** overhauled its law by, among other things, allowing more entities to authorize independent public charter schools, strengthening school and authorizer accountability, and providing additional funding to independent public charter schools.

No-Law States

As of January 2015, there were eight states that had yet to enact a public charter school law. That number decreased to seven when **Alabama** enacted a strong public charter school law in March 2015. As of this writing, 43 states and the District of Columbia have laws on the books.

We also saw notable activity in four of the seven other states without public charter school laws:

- **West Virginia:** A bill passed the Senate and two committees and two floor readings in the House, but the session ended before the third and final reading of the bill in the House could occur.
- **Kentucky:** A bill passed the Senate but died in the House.
- **Nebraska:** A bill was introduced but died in the state’s Unicameral Education Committee.
- **Montana:** A bill passed the House but died in the Senate.

Growth

Notable Activity:

- **Connecticut** defeated a proposed two-year moratorium on the opening of new charter schools.
- **Delaware** enacted a moratorium on new charters in Wilmington through 2018.
- **New York** made adjustments to allow more schools in New York City and removed authorizer restrictions on new schools.
- **Oklahoma** expanded charters statewide.
- **Wisconsin** lifted the caps on the authorizing activity of the University of Wisconsin-Parkside.

Authorizing and Accountability

Notable Activity:

- **Connecticut:**
 - Created application and contractual requirements specific to charter school governing boards that intend to contract with charter management organizations for whole-school management services
 - Required performance-based contracts between authorizers and schools
 - Required charter school governing boards to adopt anti-nepotism and conflict-of-interest policies consistent with state law and best practices in nonprofit corporate governance
 - Created reporting requirements for charter school governing boards and charter management organizations related to certified audits and Internal Revenue Service form 990

- Created background check requirements for members of charter school governing boards and charter management organizations and contractors doing business with a public charter school that perform a service involving direct student contact
- **Illinois** defeated a bill that would have eliminated the Illinois State Charter School Commission’s power to hear appeals on charter applications and renewals that are denied by local school districts.
- **Indiana:**
 - Provided that local school boards may register with the state board of education for charter authority within their attendance area and that higher educational institutions may apply to the state board for statewide, regional, or local chartering authority
 - Outlined the requirements for the authorizer registration and application processes
 - Required the state board to provide a formal evaluation every five years of charter school outcomes in Indiana
 - Created application requirements specific to charter schools looking to replicate
 - Provided that the application review process must include thorough evaluation of each written charter application and an in-person interview with the applicant group
- **Louisiana** defeated a bill that would have forced the return of certain schools in the Recovery School District to school districts.
- **Maryland** removed the ability of the state board of education to authorize charter schools in certain circumstances and instead gave local school boards the ability to authorize schools in all circumstances. The bill instead limited the state board to: remanding decisions back to local school boards, directing local school boards to grant a charter, and mediating with local school boards and applicants to implement a charter.
- **Nevada** modified its automatic closure requirements for low-performing public charter schools.
- **Oklahoma:**
 - Allowed all school districts to become authorizers
 - Allowed community colleges to become authorizers of schools located in school districts in Oklahoma and Tulsa counties
 - Allowed the state board of education to serve as an authorizer when an applicant has first been denied by a local school district
 - Allowed the state board to authorize up to five charter schools per year for the first five years after the effective date of the legislation, with no more than one charter school authorized in a single school district per year
 - Outlined the powers and duties of authorizers
 - Expanded the application requirements for public charter schools
 - Established application requirements specific to charter schools looking to replicate
 - Required performance-based contracts between authorizers and schools
 - Provided that charter schools follow the requirements of the Oklahoma Open Meeting Act and Oklahoma Open Records Act
 - Outlined clear processes for renewals and closures, including automatic closure requirements for charter schools ranked in the bottom 5 percent of all public schools in the state (with exceptions for certain circumstances)
 - Included authorizer accountability provisions

- **Rhode Island** defeated legislation that would have required town councils and school committees to sign off on charter applications and would have required the state board of education to find that a new or expanded school would not have a negative fiscal or academic impact on any of the sending districts.
- **Tennessee** altered a provision in the charter law requiring the closure of charter schools at the end of the 2014-2015 school year that are on the state's 2015 priority list. It is required instead that if such charter schools appear on the state's 2017 priority list, or in a year thereafter, they must close at the end of the school year.
- **Virginia** passed a resolution that amends the state constitution to allow the state board of education to authorize public charter schools. The resolution must be passed again by the legislature during the 2016 session and approved by voters during the November 2016 elections before it becomes law.
- **Wisconsin:**
 - Created four new pathways for authorizing independent charter schools:
 - The University of Wisconsin System will be able to authorize charters in Milwaukee and Madison via a newly created Office of Educational Opportunity (whose director will be appointed by the University of Wisconsin's president).
 - The County Executive of Waukesha County will be able to authorize charters in Waukesha County.
 - Two tribal colleges will be able to authorize charters in their counties and adjacent counties.
 - The Gateway Technical College District Board will be able to authorize charters in its county and adjacent counties.
 - Strengthened authorizer accountability
 - Strengthened accountability provisions in charter contracts
 - Clarified the duties of authorizers
 - Removed the provision in law that requires the chancellors of the University of Wisconsin-Milwaukee and the University of Wisconsin-Parkside to get the approval of the University of Wisconsin Board of Regents for any charter application

Funding and Facilities

Notable Activities:

- **Arizona:**
 - Created a \$24 million achievement school district fund that will provide monies to public schools—including charters—that have a demonstrated wait list, plan to expand or replicate, and commit to mentoring low-performing schools
 - Prohibited school districts from excluding charter schools in bidding if a school district decides to sell or lease unused facilities
- **Arkansas** created the Open-Enrollment Public Charter School Facilities Funding Aid Program, authorized up to \$20 million in funding to this program, and appropriated \$5 million in funding to it.
- **Connecticut** secured a 25 percent increase in the number of public charter school seats.

- **Florida** reduced the facilities capital outlay program to \$50 million (from \$100 million in 2013 and \$75 million in 2014).
- **Idaho** created a public charter school debt reserve fund.
- **Illinois** defeated legislation that proposed funding cuts.
- **Indiana:**
 - Created a new \$500 per public charter school student allotment that must be used primarily for facilities and transportation purposes, provided the schools meet performance expectations
 - Created a new \$50 million public charter school loan program that will allow charter schools to borrow up to \$5 million each at 1 percent interest for facilities and a wide range of educational needs. Qualification for the loan is based on the same performance criteria used to receive the facilities allotment
- **Louisiana** changed how special education is funded at charter schools (and created student quotas for special education).
- **Maine** changed the funding mechanism for charters so that the state directly funds charter schools rather than flowing the funds through school districts.
- **Maryland** authorized a study of the amount of funding provided to public charter schools and other public schools by local school systems in the state.
- **Mississippi** clarified the charter school law's funding provisions in several ways, most notably by clarifying how much local funding should flow to public charter schools.
- **Nevada:**
 - Included public charter schools in categorical education funding that they had historically been left out of
 - Revised charter bond laws to allow more schools to be eligible
 - Provided \$10 million to match private philanthropy in establishing a fund to recruit best-in-class national charter management organizations to Nevada and help develop local human capital
- **New Hampshire:**
 - Increased per-pupil funding by \$1,036 effective fiscal year 2017
 - Enacted legislation that offers a path toward property tax reductions for charters that lease space from nonexempt entities
- **New Mexico** defeated legislation that proposed funding cuts.
- **Ohio:**
 - Increased per-pupil funding for charter facilities by \$50 per year, which takes the total to \$150 per pupil in fiscal year 2016 and to \$200 per pupil in fiscal year 2017
 - Created a \$25 million "Community School Classroom Facilities" grant program for high-performing charter schools
 - Expanded the ability of traditional districts to levy taxes for community schools that are sponsored by "exemplary" sponsors
 - Provided that e-schools will receive for the first time a supplement of \$25 per pupil over the biennium for testing and counseling centers

- **Oklahoma** provided that a governing body of a charter school may enter into private contracts for the purposes of borrowing money from lenders.
- **Rhode Island** defeated legislation that proposed funding cuts.
- **South Carolina:**
 - Provided an additional \$11.5 million for state-authorized charters in the state budget
 - Included \$1.4 million for the state's first charter authorized by a higher education entity in the state budget
 - Included charter schools in the \$100 base funding increase for all public school students as well as categorical technology money and literacy funding
- **Wisconsin:**
 - Increased per-pupil funding for independent charters by \$120 per pupil over the two years of the budget (from \$8,075 to \$8,195)
 - Made it easier for independent charters in Milwaukee to access vacant and underutilized school district buildings
 - Made independent charters eligible for state transportation aid
 - Created a more sustainable approach to funding the independent public charter schools created under the new authorizing entities than the current approach for the schools authorized by the current authorizing entities

Other Issues

Notable Activity:

- **Arkansas** established adult education charter schools.
- **Colorado** established in statute the concept of charter school networks and makes explicit provisions, such as oversight by a single governing board.
- **Georgia:**
 - Allowed start-up charter schools to provide educationally disadvantaged students with an increased chance of admission through a weighted lottery if permitted by the school's charter
 - Passed a resolution for a constitutional amendment and enabling legislation that would allow the General Assembly to authorize the establishment of an Opportunity School District (OSD) to provide state intervention for failing schools. The resolution now requires a 50 percent plus one majority vote by Georgia voters in November 2016 in order to be fully adopted. If the amendment is adopted, the OSD will have the option of reorganizing failing schools as charter schools.
- **Hawaii** allowed start-up charter schools to give enrollment preference through a weighted lottery to educationally disadvantaged students.
- **Illinois** defeated a bill that would have prohibited for-profit educational management organizations from operating in Illinois.
- **Indiana:**
 - Required that each charter school have an independent governing board that is party to its charter contract with its authorizer

- Provided that a charter school may allow preschool students who attend a Level 3 or Level 4 Paths to QUALITY program preschool to attend kindergarten at a charter school, if the school and the preschool provider have entered into an agreement to share services or facilities
- Provided that a charter school may give enrollment preferences to children of the charter school's founders, governing body members, and employees, as long as the enrollment preference is not given to more than 10 percent of the school's total population
- Provided that the governing body of a conversion charter school is not bound by its collective bargaining agreement for employees of the conversion charter school, and that the employees of a conversion charter school may organize and collectively bargain only as a unit separate from other employees in the school district
- **Maryland** created a new waiver process for high-performing charters that could provide some schools with more flexibility in some areas, including instructional program, scheduling, and staff assignment (however, the provisions related to staff assignment must take place within the confines of what's allowable in collective bargaining agreements).
- **Nevada:**
 - Created the Nevada Achievement School District to take over chronically low-performing public schools and select high-performing or high-potential charter management organizations to convert the schools to charter schools
 - Made teacher qualifications more lenient for 3-, 4-, and 5-star charter schools
 - Authorized a charter school to give preference to students who are currently in a school that is over capacity or in a school that is rated at 1 or 2 stars
- **New York:**
 - Increased teacher certification flexibility. The current law allows the lesser of either five teachers or 30 percent of staff to be uncertified. The new legislation still allows for the lesser of five or 30 percent, but adds that an additional 10 teachers may also be uncertified. Five of the new 10 teachers must be teaching math, science, computer science, technology, or career and technical education.
 - Allowed schools to use an enrollment preference for the children of staff members or children of staff working for an applicable charter management organization. This preference is capped at 15 percent of total school enrollment.
- **Ohio** created the ability for community schools to operate preschool programs if sponsored by an "exemplary" sponsor and licensed by the Ohio Department of Education.
- **Oklahoma:**
 - Allowed multischool contracts and multicontract charter school governing boards
 - Provided that the capacity of a charter school shall be determined annually by the governing board of a charter school based on the ability of the charter school to facilitate the academic success of the students, to achieve the other objectives specified in the charter contract, and to ensure that the student enrollment does not exceed the capacity of its facility or size
- **Oregon** allowed a public charter school to implement a weighted lottery for historically underserved students.
- **South Carolina** clarified that charter schools must be subject to the ethics and government accountability requirements for public employees and that the charter contract must contain a statement of assurance of ethical compliance on behalf of the school.

- **Tennessee** expanded enrollment for Achievement School District charters to include students who qualify for free and reduced priced lunch and/or who have not scored proficient or advanced on state tests.
- **Wisconsin:**
 - Made it easier for high-performing charters to replicate
 - Clarified student enrollment provisions for charters as they relate to lotteries and preferences
 - Clarified that independent charter schools are their own local education agencies
 - Increased the independence and autonomy of charter school governing boards