

OCTOBER 2016

2016 State Legislative Session Highlights for Charter Public Schools

By Todd Ziebarth

The coming 2016 fall elections influenced legislative activity for charter public schools during this year's state legislative sessions. This November, legislative elections will be held in 46 states, and gubernatorial elections will be held in 12 states. These looming elections became an excuse for some legislators to avoid tough votes on pro-charter bills, while motivating some other legislators to introduce anti-charter bills.

Still, charter school supporters were able to get notable legislation passed in several states in 2016. Most significantly, Washington passed legislation that re-established its charter school law after its state supreme court declared its previous law invalid. In analyzing all of the activity this year, some of the biggest positive takeaways include the following:

- **Arizona** created the Public School Credit Enhancement Fund, which will be leveraged to provide more than \$300 million of low-cost financing for quality schools, including charter schools.
- **Colorado** increased authorizer accountability, expanded facilities support for charter schools, and enhanced charter school autonomy.
- **Florida** increased funding for its facilities capital outlay program for charter schools from \$50 million to \$75 million and changed the eligibility criteria and allocation process for this program.
- **Idaho** secured \$750,000 in funding for the charter school debt reserve fund created in 2015, provided more flexibility to charter schools regarding teacher contracts, and encouraged the replication and expansion of high-performing charter schools.
- **Louisiana** maintained autonomies for all New Orleans charter schools in the Recovery School District (RSD) as it required the Orleans Parish School Board (OPSB) superintendent to develop a transition plan that anticipates all of these schools, along with all RSD functions, returning to OPSB by July 1, 2018.
- **Michigan** required that authorizers must be accredited in order to approve additional schools in Detroit, created an A–F accountability system for all public schools in Detroit, enacted automatic closure requirements for chronically low-performing charter schools across the state, prohibited authorizer hopping (i.e., the practice of a low-performing charter school jumping from one authorizer to another in order to avoid closure), and created an advisory commission that will produce reports on school location and transportation in Detroit.

- **Mississippi** made some major improvements to its law, including allowing students in school districts rated C, D, or F to cross district lines to attend a charter school, allowing conversion charter schools to purchase or lease their existing school buildings from their local school districts at market value, and permitting charter school employees to participate in the state retirement system and other benefits programs.
- **New York** secured \$54.8 million in new funding for charter schools, which translates into an additional \$430 per charter school student.
- **Utah** revamped the way in which charter schools are funded and secured \$20 million in additional funding for charter schools.
- **Washington** reenacted a charter school law, becoming the 43rd state to have a law on the books.

Additionally, a few concerning takeaways include the following:

- **Louisiana** eliminated local charter school authorizers, which makes school districts and the state board of education the only types of authorizers in the state.
- **North Carolina** reduced the minimum required oversight of charter schools by the state board of education and made it easier for continually low-performing charter schools to stay open.
- **Rhode Island** politicized the authorization process for charter schools and created an unpredictable and unstable approach to funding charter schools.

This report provides a summary of this year’s state legislative activity across the country, organized into the following categories: no-law states, authorizing and accountability, funding and facilities, and other issues.

No-Law States

As of January 2016, eight states had yet to enact a charter public school law. This number decreased to seven when Washington reenacted a strong charter school law in April 2016. As of this writing, 43 states and the District of Columbia have laws on the books.

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

- **Kentucky:** A bill passed the Senate but died in the House.
- **West Virginia:** A bill was introduced but died in the House Education Committee.

Authorizing and Accountability

Notable Activity:

- **Colorado** expanded the grounds under which a district’s exclusive chartering authority can be challenged.
- **District of Columbia:**
 - Defined conflicting interest transactions for charter public schools and established governance and reporting obligations with respect to conflicting interest transactions.
 - Required that contracts between charter schools and school management organizations contain a provision whereby the school management organization agrees to provide to the charter

school, for production to the eligible chartering authority, books, records, papers, or documents pertaining to the services the school management organization provided or has agreed to provide to the charter school.

- Established that a charter school's failure to comply with its conflict of interest obligations or to conform its contract with a school management organization to these provisions constitutes fiscal mismanagement.

- **Florida:**

- Strengthened charter school application requirements.
- Clarified charter school voluntary closure procedures.
- Clarified automatic closure processes.

- **Louisiana:**

- Required the Orleans Parish School Board (OPSB) superintendent to develop a transition plan that anticipates all New Orleans charter schools in the Recovery School District (RSD), along with all RSD functions, returning to OPSB by July 1, 2018.
- Required all schools to participate in parish-wide discipline and enrollment processes. Maintained autonomies for all charter schools.
- Eliminated "local charter school authorizers," which makes school districts and the state board of education the only types of authorizers in the state.

- **Michigan:**

- Required that authorizers must be accredited in order to approve additional schools in Detroit.
- Created an A–F accountability system for all public schools in Detroit.
- Enacted automatic closure requirements for chronically low-performing charter schools across the state.
- Prohibited authorizer hopping (i.e., the practice of a low-performing charter school jumping from one authorizer to another in order to avoid closure).
- Created an advisory commission that will produce reports on school location and transportation in Detroit.

- **Minnesota:**

- Clarified that when a charter school closes, the school must transfer student records to the student's resident school district.
- Eliminated the requirement that nonprofit authorizers must be members of the Minnesota Council of Nonprofits or the Minnesota Council of Foundations.
- Clarified that the state commissioner of education must consult with all charter school stakeholders about the criteria used to review authorizer performance and that the state department of education must use existing department data to minimize duplicative reporting and must not fail to credit, withhold points, or penalize authorizers for failing to approve additional schools or for the absences of complaints against the authorizer's portfolio of schools.

- **North Carolina:**

- Reduced the minimum required oversight of charter schools by the state board of education.
- Made it easier for continually low-performing charter schools to stay open.

- **Rhode Island** politicized the authorization process for charter schools in a few ways:

- Required local written support for a proposed network charter school. "Written support" means a resolution or ordinance granted by the town or city council for each proposed sending district where the council considers the fiscal and educational welfare of the municipality and students

after at least one public hearing. “A network charter school” is a charter school that encompasses or will encompass elementary and secondary schools or multiple elementary or multiple secondary schools. The definition of a “network charter school” exempts charter schools authorized as of the effective date of the act that creates “network charter schools.”

- Required that when considering a proposed charter or an amendment to a charter for expansion, the state council on elementary and secondary education shall place substantial weight on the fiscal impact on the city or town, programmatic impact on the sending school district, and the educational impact on the students in the district to ensure that the proposal is economically prudent for the proposed sending school district and for all students in the sending district.
- Required that the mayor from each city or town, or in the absence of a mayor the city or town council via a resolution or ordinance, shall approve the participation in a mayoral academy’s catchment area for a proposed charter or an amendment to a charter for expansion.
- **Tennessee** allowed the state board of education to charge up to 4 percent of an authorized charter school’s per student state and local funding as an authorizer fee.
- **Virginia**
 - Strengthened charter application and charter contract requirements.
 - Failed to pass a resolution that would have amended the state constitution to allow the state board of education to authorize charter schools. While the resolution passed in 2015, it needed to be passed again by the legislature during the 2016 session and approved by voters during the November 2016 elections before it could become law.

Funding and Facilities

Notable Activity:

- **Alabama** allocated \$200,000 to support the work of the Alabama Public Charter School Commission in developing authorizing practices and allocating planning funds to applicants.
- **Arizona:**
 - Allowed charter schools access to the state’s Extraordinary Special Education Needs Fund.
 - Created the Public School Credit Enhancement Fund, which will be leveraged to provide more than \$300 million of low-cost financing for quality schools, including charter schools.
- **Arkansas** appropriated an additional \$5 million in funding to the Open-Enrollment Public Charter School Facilities Funding Aid Program.
- **California** secured \$20 million in start-up funding for charter schools, which will only be used if the state does not win a new grant from the federal Charter Schools Program.
- **Colorado:**
 - Locked down an additional \$3 million for the state’s Charter Capital Construction Fund, raising the total fund from just \$7 million two years ago to \$25 million heading into next year.
 - Required districts to regularly provide their charter schools and the public with an inventory of any vacant or underutilized buildings. Districts must then entertain charter proposals for these buildings or land and, if they choose not to accept them, notify their charter schools in writing and in a public meeting as to the reasons why not.
 - Added maintenance to the list of allowable expenses under the Charter Capital Construction program.

- Reduced from five years to three the period a charter must be authorized before it can apply to the state’s BEST capital construction competitive grant program, consistent with other schools in the state.
- **Florida** increased the funding for its facilities capital outlay program for charter schools from \$50 million to \$75 million and changed the eligibility criteria and allocation process for this program.
- **Georgia** added new training requirements regarding sound fiscal management for governing board members, created a charter school financial management certification program, and required that the principal or its equivalent for a charter school shall not serve simultaneously as the chief financial officer or its equivalent for the charter school.
- **Idaho** secured \$750,000 in funding for the charter school debt reserve fund created in 2015.
- **Illinois** tripled the amount of start-up funding for new charter schools in the Charter Revolving Loan Fund from \$250 per pupil to \$750 per pupil, and added facilities costs to the pool of eligible expenses.
- **Minnesota** lifted the cap on enrollment to determine whether special education charter schools are eligible for accelerated cash flow.
- **Mississippi** allowed conversion charter schools to purchase or lease their existing school buildings from their local school districts at market value.
- **Missouri** secured access to early childhood funding for charter schools.
- **New Hampshire:**
 - Provided that funding for charter school students receiving special education services be paid directly to the school district in which the student resides and excluded Individuals with Disabilities Education Act funds from the requirement that school districts direct certain funds to a charter school.
 - Provided that students attending a charter school must be provided bus transportation to their school on the same terms and conditions provided for students attending district public schools and removed the requirements that a charter school is liable for additional costs for transporting students to a charter school within the student’s school district.
- **New York** secured \$54.8 million in new funding for charter schools, which translates into an additional \$430 per charter school student.
- **Rhode Island** created an unpredictable and unstable approach to funding charter schools. The new approach allows districts to withhold from their local per pupil share of education aid that follows resident students to charter schools the greater of either percent of the district’s per pupil local share or the amount by which the district’s per pupil expenditures on a host of specifically enumerated categories exceed the statewide average of charter school expenditures in those same categories.
- **South Carolina:**
 - Provided \$81 million for state-authorized charter schools in the state budget.
 - Made noncertified teachers and counselors at charter schools eligible for teacher supply funds.
 - Made charter schools eligible for career and technical equipment funds.
- **Utah** revamped the way in which charter schools are funded and secured \$20 million in additional funding for charter schools.

Other Issues

Notable Activity:

- **Arizona** created an enrollment preference for children in foster care or children who meet the definition of unaccompanied youth prescribed in the McKinney-Vento Act.

- **Colorado:**
 - Reduced reporting requirements for higher performing schools.
 - Allowed for a single financial audit in the case of charter school networks or those operating with multiple campuses.
- **District of Columbia:**
 - Allowed the District of Columbia Public Charter School Board to approve a charter school that gives a preference for admission to children of active duty members of the United States Armed Forces.
- **Florida:**
 - Clarified that a charter school may not base admission or dismissal decisions on a student’s academic performance.
 - Required charter schools to describe their enrollment and admissions policies and procedures and their proposed student code of conduct as part of the charter application. Required authorizers to carefully review these items at the application phase to ensure compliance with the law.
 - Allowed charter schools to provide enrollment preference for students who attended or are assigned to a public school that in the most recent year earned a school grade of F or a third consecutive grade of D.
- **Idaho:**
 - Provided more flexibility to charter schools regarding teacher contracts.
 - Encouraged the replication and expansion of high-performing charter schools.
- **Illinois** extended the permissible renewal term to ten years for high-performing charter schools.
- **Maine** allowed charter schools authorized by a local school board or a collaborative among local school boards to give enrollment preference to residents of the school administrative unit or units whose school board or school boards authorized the charter school.
- **Minnesota** clarified that the definition of charter school board structure is a teacher majority, parent majority, or community member majority and that changing from one of these structures to another requires that the school follow a three-step legal process outlined in the law.
- **Mississippi:**
 - Allowed students in school districts rated C, D, or F to cross district lines to attend a charter school.
 - Permitted charter school employees to participate in the state retirement system and other benefits programs.
- **New Hampshire** clarified the ability of charter school pupils to participate in programs and cocurricular activities in their resident district.
- **North Carolina** allowed charter schools to give enrollment priority to a student who was enrolled in another charter school in the state in the previous school year that does not offer the student’s next grade level and to a student who was enrolled in another charter school in the state in the previous school year that does not offer the student’s next grade level and both of the charter schools have an enrollment articulation agreement to accept students or are governed by the same board of directors.
- **South Carolina** allowed charter schools designated as alternative education campuses to give mission-aligned admissions preferences to certain educationally disadvantaged students, expanded the definition of alternative education campuses, and revised accountability requirements for alternative education campuses.