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Legislative Brief

Charter School Facilities

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Key Points

- Public charter schools are a relatively new component for local funding bodies and school districts in terms of school facilities funding and planning. By law, charter schools are established and funded as separate entities in contrast to traditional public schools, which are funded as a part of a school district.

- Unlike traditional schools, which are the property of the local board of education, most charter schools either lease, own, or have financed to own their school facility. Following approval by an authorizer – a local board of education, the Achievement School District (ASD), or the State Board of Education – most charter schools become responsible for securing their own school facility.

- The majority of Tennessee's charter schools lease their facilities, either from private property owners (50 percent), their authorizing school district (22 percent), or public entities such as a city or county government (9 percent). The remaining schools own or have financed to own their buildings (18 percent).

- Tennessee law requires school districts with operating charter schools to annually catalog the underutilized and vacant properties owned by the district available for rent to charter schools. State law does not dictate specific terms for lease agreements between charter schools and school districts.

- Charter schools authorized by the ASD differ from other charter schools. ASD charter schools neither lease nor own their school facilities and are not responsible for securing a school facility. Almost all charter schools in the ASD are instead located in a school facility previously operated by a local school district and subsequently taken over by the ASD because of low academic performance. When a local school district's priority school is transferred to the ASD's control, state law grants the ASD unrestricted use of the school building and all related facilities free of charge, though the local school district retains ownership of the property.

- Charter schools receive a per pupil allocation of state and local Basic Education Program (BEP) funds, including funding generated by the BEP for capital outlay. Tennessee law states that charter schools may use the capital outlay funds generated through the BEP for several purposes, including the purchase or lease of real property and school facilities, construction or renovation of school facilities, and debt service payments. Like other BEP components in the non-classroom category, however, funding that is generated for capital outlay may be spent for other purposes, such as teacher salaries or other operating expenses. Charter schools also receive, as a per pupil allocation, their share of any local operating funds allocated beyond the required BEP match.

- State law excludes funds designated for debt obligations (bond proceeds) and associated debt service revenues from the per pupil allocation received by charter schools, but the law does not prohibit school districts from including charter schools in their capital requests to the local funding body; to date, no school district in Tennessee has done so. One charter school has accessed public funding for capital needs through a conduit agency.

- Nationally, programs to provide charter schools with facilities-related assistance typically fall into four general categories:

    - access to district facilities,
    - assistance with borrowing money,
    - dedicated per-pupil funding, and
    - competitive state grants.

Introduction

As the number of public charter schools across the United States has increased, several states have created programs or passed legislation related to funding facilities for charter schools. The Comptroller's Offices of Research and Education Accountability (OREA) has published several reports on charter schools in Tennessee since 2002, including a response to the charter school task force in 2011 and an analysis of authorizer and charter school funding in 2014. This report examines facilities funding for charter schools and traditional public schools in Tennessee, provides information on the facilities arrangements for Tennessee's charter schools, and describes efforts in Tennessee and other states to provide charter schools with facilities-related assistance.

Tennessee Laws Guiding School Facilities

For the purposes of this report, OREA distinguishes between two types of funds for education: operating and capital. Operating funds are composed of revenue from local, state, and federal sources, and are used to account for a school district's general operating budget. Examples of operating funds are the general purpose fund, categorical federal grant programs, and food services. Capital funds are composed primarily of local revenue sources and are used to account for large projects, such as the construction or renovation of school buildings.

> ***Charters are structured and funded differently than traditional public schools***
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> Charter schools are a relatively new component in terms of school facilities' funding and planning. Charter schools are public schools operated by independent governing bodies and are authorized by one of the following three entities in Tennessee: local boards of education, the Achievement School District (ASD), or the State Board of Education (SBOE). The majority of charters in Tennessee are authorized by local boards of education. Each charter is granted for a ten-year term, but the school may be closed at any time during the charter period if it demonstrates poor academic performance, violates the charter agreement, or fails to meet generally accepted standards of fiscal management.
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> Source: Tennessee Code Annotated 49-13-104(5)(A-B) and 49-13-104(3).

Operating Funds

State law requires that local boards of education allocate to charter schools an amount equal to the school district's per-student state and local funding, including funds that exceed the local match requirements, with the exception of revenues from bonds and revenues for debt service payments.[1]

This state and local money consists of the state Basic Education Program (or BEP, the state's education funding formula), the required local match for the BEP, and any local operating funds above and beyond the local required match. (The BEP includes a capital outlay funding component which is discussed in more detail below. See "Capital Funds.") Exhibit 1 displays funding sources for traditional schools and charter schools. Charter schools' share of these funds is calculated by dividing the district's total annual daily membership (ADM) by the total local and state revenue due to the charter schools, then multiplying the per-pupil amount by the ADM of the charter school.[A] Charter schools also receive all appropriate allocations of federal funds, such as Elementary and Secondary School Act (ESEA) funds.[2]

Charter schools receive their public funding on a per-pupil basis. In contrast, traditional public schools within the district receive their public funding as a distribution by the district based on a variety of factors determined by the district, including enrollment, needs of the students, and school programming (e.g., elementary versus high schools). Districts retain some amount of operating funds for district-wide expenditures, such as central office staff, transportation, and facility maintenance.

The BEP calculates state funds to be allocated to individual districts, not to schools. Local funding bodies (e.g., county commissions or city councils) are required to generate additional local funds for education, commonly referred to as the "required local match."[B] Local governments may, and often do, provide additional funding for education above the required BEP local match. For example, in FY2015, the four local school districts that have authorized charter schools as of the 2015-16 school year contributed between 32 percent and 80 percent above the required match in local per-pupil funding.[3] Once the school district's local board of education approves the annual budget, it submits the approved budget to the county commission for final approval and disbursement of funds.

Exhibit 1: Funding sources for traditional public schools and charter schools

Revenue Source	Traditional schools through their districts	Required allocation to charter schools
	Operating Funds	
State BEP Funds	✓	✓
Local required match	✓	✓
Local operating funds above and beyond local match	✓	✓
	Capital Funds	
Local funds earmarked for education debt service	✓	
Local funds for education capital projects	✓	

[A] The district's ADM is either that of the authorizing district or – for schools authorized by the ASD and SBOE – the sending district of the student.

[B] As of the 2015-16 school year, all charter schools authorized by a local board of education operate in county school districts. For brevity's sake, this report will refer only to county commissions as the primary example of a local funding body.

Per-pupil funding for ASD schools is calculated the same as for non-ASD charter schools.[4] For a school placed in the ASD, TDOE estimates the amount of local education funding the school would receive and withholds that amount, along with the state funding for that school, from the total state funding sent to the original district. The per-pupil funding for ASD schools is transferred out of the student's original school district (e.g., Shelby County Schools no longer receives any funding for a child enrolled at an ASD school).[5]

The State Board of Education (SBOE) authorized its first two charter schools in the fall of 2015. No schools are currently in operation; however, SBOE-authorized charter schools will receive the same amount of per-pupil funds as the charter schools authorized by local boards of education and the ASD.

Capital Funds

Similar to their power to approve districts' operating budgets, county commissions also have the power to approve districts' capital budgets. A local board develops a separate capital budget that outlines large construction and maintenance projects for the district's buildings. Capital projects are typically defined as:

- major expenditures for land acquisition,
- construction of new schools, or
- extensive additions or renovations to existing facilities.[6]

Most school districts finance capital projects through bonds issued by their county commission to fund the projects outlined in the capital budget. Debt service to pay off the principal and interest on bonds is funded by earmarked local tax revenue.[7]

State law excludes funds designated for debt obligations (bond proceeds) and associated debt service from the per-pupil allocation received by charter schools, but the law does not prohibit districts from including charter schools in their capital requests to county commissions; to date, no school district in Tennessee has done so.[8]

A county may choose to include additional funding for charter schools in the annual county budget. For example, in 2014, Metro Nashville government allocated $19.6 million for the expansion and renovation of Highland Heights, a former Metro Nashville Public Schools (MNPS) building that had fallen into disrepair, which is now owned by Metro Nashville and leased to KIPP Nashville.[9]

The BEP includes a capital outlay component, one of 45 components that comprise the BEP, which is calculated based on the state's predetermined unit costs for construction, equipment, architect's fees, and debt retirement.[10] All districts receive capital outlay funds as part of their overall state BEP allocation. For districts with charter schools, state law also requires TDOE to distribute the state portion of BEP capital outlay funds on a per-pupil basis directly to charter schools.[11] With the exception of the state's portion of the BEP capital outlay component, district authorizers are responsible for distributing all state and local funds to their charter schools.[12]

The BEP formula calculates state funds to be allocated to individual districts and the amount of funding local systems are required to generate for education. The BEP is a funding formula, not a spending plan or budget. With certain exceptions, each school district (and individual charter school) determines how to spend BEP funding. Tennessee law states that charter schools may use the capital outlay funds generated through the BEP for several purposes:

- purchase, lease-purchase, or lease of real property, school facilities, or property, such as furniture, computers, science lab equipment;
- construction or renovation of school facilities;
- debt service payments.[13]

Like traditional public schools, charter schools may receive private funding in addition to public funding, including private funding for capital projects.[14]

Tennessee Charter Schools: Current Facilities

As of the 2015-16 school year, 97 charter schools operate in four school districts and the Achievement School District (ASD). Exhibit 2 displays the charter schools by district for school year 2015-16.

Facility arrangements vary by authorizer. Charter schools authorized by school districts and the SBOE must secure their own facility arrangements. Once a charter school's application is approved by the authorizer, it is the responsibility of the school operator to secure its own school facility; neither the local board of education nor the SBOE is required to provide a facility to the charter schools they authorize. It is often not until a charter school receives approval from the authorizer to open a school that an operator is able to seek and secure facilities. Property owners and lenders may require the operator to obtain the charter before they will lease a building or lend money for facilities.

Exhibit 2: Charter Schools by District, 2015-16

School District	Charter Schools
Hamilton County	3
Knox County	1
Metro Nashville	27
Shelby County	45
Achievement School District	21

Note: As of the 2015-16 school year, the ASD operates 29 schools: 21 charter schools, 5 schools operated by the ASD, and 3 contract schools (two alternative and one high school).

Schools authorized by the ASD do not have to obtain school facilities in the same manner as schools authorized by traditional school districts and the SBOE. By law, when a school district's priority school is transferred to the ASD, the ASD has the rights to the unrestricted use of the school building and all related facilities free of charge. The school's original district (e.g., Shelby County, Metro Nashville Public Schools) retains ownership of all of the property. The ASD is responsible for routine maintenance (e.g., custodial, plumbing, electrical, HVAC) and utility expenses while the school district retains responsibility for all capital expenses and extensive repairs. Any improvements or assets made by the ASD to the school building at its expense are to remain with the school building when it returns to the school district.[15]

Shelby County and MNPS have 27 and two schools in the ASD for the 2015-16 school year, respectively.[16] The ASD has established a Memorandum of Understanding with both districts to ensure that ASD buildings are prioritized in the same manner as other district schools for capital improvements. The MOU recognizes that most facilities in both SCS and MNPS have existing capital needs; therefore, with the exception of emergency repairs, the districts will make capital expenditures to ASD facilities in accordance with their unique long-term capital budget for all school buildings.

The majority of Tennessee's charter schools lease their facilities, either from private property owners (50 percent), their authorizing school district (22 percent), or public entities such as a city or county government (9 percent). The remaining schools own or have financed to own their buildings (18 percent).[17] Exhibit 3 shows the facility arrangements for charter schools in the 2015-16 school year.

Exhibit 3: Charter School Facilities, 2015-16

Facility Arrangement	Number of Tennessee Charter Schools
Leasing a district-owned facility	17
Leasing a privately owned facility	38
Leasing a publicly owned facility not owned by the district	7
Own their own building	14

Note: These figures represent charter schools in Hamilton, Knox, Davidson, and Shelby counties. 27 ASD schools are located in their former district counterpart school buildings, and the two new-start schools are in private facilities.
Source: Combination of data collected from Tennessee Charter School Center, district lease agreements, annual audits, and individual charter schools.

In MNPS, eight charter schools lease buildings from the district while 14 schools lease from either Metro government or private property owners. The remaining five schools reported that they own or have undertaken financing to own their buildings. The majority of Shelby County's charter schools for the 2015-16 school year lease privately-owned (29) or publicly-owned (one) facilities while the remaining schools lease district-owned facilities (nine) or own or finance to own their buildings (six). In Hamilton County, two of the three charter schools own or have undertaken financing to own their buildings while the third charter school leases its facility. Knox County's first charter school opened in 2015 and owns its facility.[18]

Laws and Policies Guiding Facilities Funding: Tennessee and Across the Nation

As of June 2014, Tennessee, along with 41 states, the District of Columbia, and Puerto Rico have enacted charter school laws.[19] Several states have established policies, programs, or funding to provide charter schools with facilities-related assistance.[20] These programs typically fall into four general categories:

- access to district facilities,
- assistance with borrowing money,
- dedicated per-pupil funding, and
- competitive state grants.

The types of programs and level of assistance varies widely by state and the unique taxing authorities for their school districts.

Access to District Facilities

One method of providing charter schools with facilities-related assistance is to encourage authorizing districts to make certain district facilities, such as underutilized or vacant properties, available to charter schools. [21]

Tennessee

Tennessee law requires school districts with operating charter schools to annually catalog a list of the underutilized and vacant properties owned by the district, both individual buildings and any vacant space or classrooms within another educational facility, as well as any plans for the use of these buildings.[22] TDOE publishes guidelines for districts to use when compiling their annual list. Districts must submit this list to the TDOE and the Comptroller.[23] TDOE publishes this list each year on its website.

Tennessee law requires districts to make vacant and underutilized properties available for use by charter schools.[24] Inclusion of property on the list does not automatically make the space available for use by a charter school, nor does it impede a district's ability to plan for the use of the properties. Although Tennessee's law does not explicitly include a provision commonly referred to as "right of first refusal," an attorney for the Tennessee School Boards Association stated that it has been interpreted to mean that school districts must lease listed properties to charter schools if district plans for their use are not identified in the annual list and that districts must first offer a building for lease to charter schools before entertaining offers from other outside groups (e.g., churches, nonprofits).[25]

State law does not dictate specific terms (e.g., rent rate, etc.) for lease agreements between districts and charter schools. As of the 2015-16 school year, 17 charter schools are leasing district-owned facilities.[26] Exhibit 4 displays district facility use by district.

If a charter school chooses to lease a district facility, the district may withhold up to 1 percent of per-pupil funds each year for the first four years of a charter school's operations, no more than $20,000 annually. These funds provide a financial protection to the district should the charter school close within the first four years and have any outstanding debts related to the facilities agreement. The district is required to remit these funds and any accumulated interest back to the charter school at the beginning of its fifth year of operation.[27]

Some charters may prefer to lease a facility from a school district since these buildings are often buildings intended for school use, with classrooms, cafeterias, an auditorium, a gymnasium, recreation areas, and parking spaces. Additionally, the location and lease terms may fit a charter school's goals and budget while also allowing the district to retain an investment of public dollars back into a publicly-owned facility that otherwise would not be used.

Other states

Similar to Tennessee, other states (e.g., Delaware, Georgia, and Louisiana) require school districts to make surplus facilities available to authorized charter schools.[28] Some other states' laws include an explicit "right of first refusal" provision, whereby the district is required to offer a building available for rent or lease to a charter school before entertaining other offers. California requires school districts to provide charter schools that serve at least 80 district students with facilities as long as the district can do so without using unrestricted general fund revenues to rent, buy, or lease a facility for the school. The buildings remain the property of the

Exhibit 4: District facility use by district

	MNPS	SCS	HCDE	KCS
Total Charter Schools	27	45	3	1
Rent Rate	$5.20 per square foot – increasing 2%/year	Varies by building	N/A	N/A
Rent Credit	Yes	No	N/A	N/A
Charters in District Facilities	8	9	0	0
ASD Schools in District Facilities*	2	27	0	0

Sources: Interviews with the Facilities Departments at Metro Nashville Public Schools and Shelby County Schools.
*Note: *Tennessee Code Annotated* 49-1-614(f) grants ASD schools the right to use the original district's buildings when a school is taken over by the ASD; as of the 2015-16 school year, MNPS has two schools and SCS has 27 schools operating in the ASD.

district and must be furnished and equipped with materials necessary for instruction. While California law prohibits districts from charging rent to charter schools if the property was purchased with taxpayer-backed bond funds for facilities, districts may still charge charter schools a facility fee to cover any costs related to the building according to a formula that calculates a charter school's share of any general discretionary funds that a district has to spend on a facility.[29]

Most other states' laws are silent in regard to how much school districts may or may not charge charter schools to rent surplus buildings. Some laws set broad parameters, such as New Mexico, where charter schools are not required to pay rent for a district facility if the building exists with no cost to the district. If there are costs associated with the building, the district may charge up to the actual direct cost of providing the facility.[30] In Louisiana, local school boards that authorize charter schools must make available any vacant school facilities or any facility slated to be vacant for lease or purchase at up to fair market value. Districts must make the facility and all property available to conversion charter schools. In return, the conversion charter school operator is responsible for paying a proportionate share of the local school board's bonded indebtedness for the facility.[31]

Assistance with Borrowing Money

Another method of providing charter schools with facilities-related assistance is to address charter schools' access to the tax-exempt bond market, create a credit enhancement program, establish a moral obligation provision, or create direct loan programs.

Access to the tax-exempt bond market or financing

Tax-exempt bonds are one of the primary methods that local governments use to raise money for large capital projects. Interest rates on repaying these bonds are usually lower than rates on traditional loans, and repayment terms on bonds allow governments to spread the cost over 20 to 40 years.[32]

Tennessee

In Tennessee, neither the school district's local board nor its authorized charter schools have the authority to raise taxes or issue debt.[33] Tennessee is one of nine states in which most school systems are dependent on a local government or legislative authority for funding.[34] State law allows for three types of school districts, each with its own unique governance and taxing structures: county, municipal, and special school districts. County districts (93) and municipal (33) districts represent the majority of Tennessee's school districts. In these types of districts, the local legislative authorities (i.e., the county commission for county school districts and city councils for municipal school districts) are responsible for levying taxes, issuing debt, allocating funding to education, and approving school district budgets. Special school districts (14) must rely upon the General Assembly to authorize any tax levy for their districts.[35]

Funding for the construction of a new school or significant renovations to an existing school differs for charters compared with traditional schools. Traditional schools are planned for by local boards of education, which submit capital requests to their local funding bodies. If approved, these capital projects are typically financed through bonds issued by a local government on behalf of the school district. State law excludes funds designated for debt obligations (bond proceeds) and associated debt service revenues from the per pupil allocation received by charter schools, but the law does not prohibit school districts from including charter schools in their capital requests to county commissions; to date, no school district in Tennessee has done so. [36]

Charter schools in Tennessee may obtain financing for education facilities through conduit agencies such as health and education boards or industrial development boards. These conduit agencies are nonprofit corporations authorized by Tennessee law to issue bonds for the construction of a variety of projects, such as hospitals, schools, and other sites for economic development.[37] The financing of such projects are paid for by the revenues from the project. Neither taxpayers nor the county are liable for the repayment of the bonds.

One charter school in Shelby County obtained private activity bond financing through the Shelby County Health, Education, and Facilities Board.[38] State law allows such boards to assist education institutions, both public and private, in obtaining financing for facilities.[39] Charter schools may apply to any such board throughout the state for financing; however, the financing must be approved by the charter school's local funding body.[40]

Charter schools that obtain loans from commercial lenders may pay relatively high debt service costs for several reasons:

- For the purposes of commercial lending, charter contracts are short-term contracts; in Tennessee, charter agreements are granted in 10-year increments;
- The financial success of a school is often dependent on the academic success of its students; if children perform poorly, enrollment, and therefore revenue streams, may decline;
- Per-pupil funding may be low depending on the state or school district;
- Charter schools may not have collateral to propose to back their financing; and
- Charter schools may lack or have a limited credit history.

The buildings that charter schools lease from their authorizing district may be included on the district's capital improvements list. Tennessee law does not allow charter schools to use properties owned by the state or local government as assets to secure credit.[41] It may be difficult for charter schools to obtain traditional financing for improvements on a district-owned building. In MNPS, charter schools that lease buildings from the school district are eligible to receive a rent credit of up to 50 percent for approved capital projects that they wish to complete on their own, separate from the district's capital improvement plan.[42]

Other states

Some states have authorized the creation of a conduit agency through which tax-exempt bonds can be issued for charter school facility projects. Between June 2012 and May 2014, 150 public tax-exempt bond transactions have been issued on behalf of charter schools in 26 states and D.C. For example, the Arkansas Development Finance Authority administers funding in the form of tax-exempt bonds and other debt instruments through a variety of housing and economic development programs. Charter schools are eligible to access financing through the program's Capital Improvement Revenue Bonds program. In Florida, eligible charter schools may access tax-exempt, low-interest bond financing through the Florida Development Finance Corporation, a state-authorized issuer of industrial revenue bonds. The corporation issues bonds in counties throughout Florida for organizations such as charter schools, private schools, daycare facilities, and recreation centers.[43]

Credit Enhancement Programs and Moral Obligation Programs

Credit enhancement programs and moral obligation provisions are two mechanisms to improve a charter school operator's ability to access financing. Credit enhancement programs allow a state (or other third party) to extend its superior bond rating or credit rating to a charter school operator, which, in turn, helps boost the school's credit rating. A better credit rating enables the operator to obtain a lower interest rate in the bond market. Examples include municipal bond insurance, letters of credit from a bank, or state intercept programs. Credit enhancement programs may also allow for money to be set aside as repayment if a loan goes into default. Nine states currently offer some kind of credit enhancement provision in law.[44]

Moral obligation programs allow qualified charter schools issuing a bond to attach the state's Moral Obligation pledge to its debt. Through this pledge, the state agrees to seek an appropriation to pay off the debt service in the event that the charter school defaults on its bond obligations.

Tennessee

Tennessee does not currently provide a credit enhancement program or moral obligation provision for charter schools. In Tennessee, there are substantial constitutional limitations on the state and its political subdivisions issuing credit enhancements.

Other states

Texas offers two programs that extend credit enhancement opportunities to charter schools. In 2011, the state legislature allowed charter school operators with investment grade ratings to apply for designation as a charter district, allowing them access to the Texas Permanent School Fund (PSF), established to help finance public schools, including guaranteeing bonds issued by school districts or by the state. Charter districts may then apply to issue bonds guaranteed by the PSF, enabling the schools to access a higher bond rating and lowering borrowing costs. Charter districts may also apply to refinance debt through bonds guaranteed by the PSF. Texas also established the Texas Credit Enhancement Program (TCEP) through an agreement with the Texas Education Agency and the Texas Charter Schools Association. TCEP began by using $10 million in grant funding from the U.S. Department of Education's credit enhancement program. TCEP provides credit enhancement for municipal bonds that provide financing for charter school facilities, including construction, repair, or renovation, as well as some refinancing of facilities-related debt. The state treasurer manages a reserve fund that is used to provide security for repayment of the bonds.[45] As of 2014, the PSF has guaranteed approximately $303 million in bonds for charter schools.[46]

Colorado's Moral Obligation Program allows qualified charter schools issuing a bond to attach the state's Moral Obligation pledge to its debt. The program is funded through a separate fund known as the state charter school interest savings account within the state charter school debt reserve fund. Each qualified charter school allowed in the program pays 10 basis points of the principal amount of bonds outstanding into this fund. In the event of a default that would exhaust the fund balance, the statute directs the Governor to notify the legislature so that it may consider whether or not to appropriate funds to pay off the bonds. As of 2015, the fund had a balance of $4 million with an additional $6.5 million appropriated to the state charter school debt reserve fund to ensure the state's moral obligation pledge should the fund be exhausted in its entirety. As of 2014, the total amount outstanding under the program was limited to $500 million. The program also enhances a charter school's credit rating to obtain favorable financing terms on capital construction bonds.[47]

Utah's Charter School Credit Enhancement Program allows charter schools to obtain favorable financing terms. Under the Utah program, the state issued a promise, or moral obligation, that it will replenish the state's Charter School Reserve Account should the account be used to cover nonpayment by a charter school borrower.[48]

Federal programs: Credit Enhancement for Charter School Facilities Program

The U.S. Department of Education's (USDOE) Credit Enhancement for Charter School Facilities Program assists charter schools with obtaining favorable financing terms. The USDOE's report on the program recognized that many states do not allow charter schools to issue bonds backed by property taxes to finance their facilities, and that the lack of tangible assets and years of proven financial stability made it difficult for charters to receive approved mortgage loan applications.[49]

The federal program provided competitive grants to eligible public entities, such as state or local government agencies and nonprofits, to provide credit enhancements and absorb some of the risk of making loans to charter schools. Grant recipients could use the funds to directly pay for the cost of a charter school's construction or renovation needs or as down payment on facilities to assist a charter school in securing a loan. The funds were intended to be used to assist charter schools in accessing private-sector capital by guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, or loans. The funds could also be used to guarantee and insure leases of personal and real property or to facilitate financing between private lenders and charter schools.[50] No agency in Tennessee has received an award.

Direct Loan Programs

State loan programs offer direct loans of public funds to charter schools, typically funded through state appropriations.

Tennessee

Tennessee does not offer a direct loan program for charter schools or school districts relative to capital expenditures. In past years, 16 Tennessee school districts received loans granted to their local government through the federally funded Qualified Zone Academy Bond (QZAB) program, administered by the Tennessee Local Development Authority (TLDA) and staffed by the Comptroller's Office of State and Local Finance.[51] TLDA issues bonds and notes which provide funds for loans that local governments, as well as other designated groups, may use to finance capital projects, including K-12 educational facilities. The QZAB program provided loans to school districts to fund building renovations and repairs. State law allows charter school authorizers (school districts, the ASD, or the SBOE) to endorse a charter school's request for funding to their local taxing authority (e.g., city council, county commission) for a QZAB;[52] however, Tennessee has disbursed all of its federal appropriations for the program and no additional funding is available.[53]

Similar to the QZAB program, the Qualified School Construction Bond Program (QSCB) allowed federal funds to be used for new construction, renovation, and rehabilitation of schools, although state law did not specifically approve their use by charter schools. Allocations to states were based on shares of Title I Basic Grant funds under the Elementary and Secondary Education Act (ESEA). Tennessee has disbursed all of its federal appropriations for the program and no additional funding is available.[54]

Other states

Utah's Charter School Building Revolving Loan Fund provides loans to charter schools for construction and renovation costs. The account is funded by appropriations from the state legislature, money received from the repayment of loans made from the account, and interest earned. Loans are limited to $2 million per year on five-year repayment terms.[55]

The District of Columbia established through appropriations the Direct Loan Fund for Charter School Improvement to provide loans to charters for construction, purpose, renovation, and maintenance costs. Schools may qualify for loans of up to $2 million, with interest rates ranging from 2 to 4 percent.[56] The program has disbursed approximately $37 million in direct loans to 27 charter schools since its inception in 2003.[57]

South Carolina also has a direct loan program for charter schools that is administered by its state treasurer's office. The Charter School Facility Revolving Loan Program comprises federal funds, appropriated state funds, and private donations. Loans are to be used for construction, purchase, renovation, and maintenance of charter schools.[58]

Federal programs: U.S. Department of Agriculture – Community Facilities Direct Loan and Grant Program in Tennessee

The USDA's Community Facilities Direct Loan and Grant Program in Tennessee offers low-interest direct loans, grants, and a loan guarantee program to develop essential community facilities in rural areas. Funds are typically used to purchase, construct, or improve community facilities, such as health care organizations, public facilities (such as town halls, courthouses, museums, and libraries), or private schools. Ivy Academy in Hamilton County is the first charter school in Tennessee to receive funding through this program.[59] The charter school received $1.8 million in Rural Development Community Facility loans administered through the USDA to purchase and renovate its facility in Soddy Daisy, Tennessee.[60] Ivy Academy's status as a rural charter school as well as its classification as a green ribbon school for environmental health allowed it to qualify for a zero-interest loan for 35 years with no down payment.[61]

Dedicated Per Pupil Funding

Another method of providing charter schools with facilities-related assistance is to dedicate funding specifically for charter school facilities.

Tennessee

Tennessee does not allocate additional funding for charter school facilities, either through the BEP or separate per-pupil funding.

Other states

Some states may not allocate state or local dollars for charter schools at as high a level as they do for traditional public schools. As a result, several states have attempted to offset any funding disparities by appropriating additional funds to charter schools for school facilities. State appropriations for charter facilities, usually made on a per-pupil basis, are typically given in addition to regular state and local education funding and are provided without any obligation of repayment. State laws vary regarding how charter schools may spend the additional funds. For example, Massachusetts, Minnesota, and New Mexico offer categorical aid that may be used only for facilities. Minnesota and New Mexico restrict the expenditures further, allowing the funds to be used only for lease costs and not for purchase, construction, or debt service costs.[62]

The Office of the State Superintendent of Education (OSSE) in Washington, D.C., has distributed the Facilities Allowance for Public Charter Schools since 2009. D.C. charter schools may use the Facilities Allowance funds either for lease payments or to build their fund balance as a means to secure financing at a later date. The allowance was originally connected to the District of Columbia Public Schools (DCPS) per-pupil facilities expenditures, designed to adjust to total funding available each year, based on changes in capital costs and the number of charter school students. The formula has been revised to remove its calculation in connection with DCPS enrollment and capital funding levels to a flat fee of $3,000 per charter school student.[63]

Florida distributes capital outlay dollars to all public school districts from the state's Public Education Capital Outlay and Debt Service Trust Fund, which consists of funding from public education bonds and general revenue funds appropriated for that purpose.[64] Florida law allows charter schools to receive a per-pupil facilities allocation from these funds if the school meets certain eligibility requirements: the school must have been in operation for at least three years, demonstrate financial stability and academic achievement, and serve students in a facility that is not provided by the school's sponsor. In FY2014, the per-pupil allocations for charter schools ranged from $414 to $628, depending on the grade level of the student. [65]

Federal programs: Charter Facilities Incentive Grant

Although no longer receiving new appropriations, the federal Charter School Facilities Incentive Grants Program provides matching funds to states that provide additional per-pupil funding to charter schools for facility costs. Tennessee is not currently eligible for this grant; charter schools do not receive additional capital outlay funding beyond what is calculated through the BEP formula.

Competitive State Grants

Some states have created competitive state grants that charter schools may use for facilities-related purposes.

Tennessee

Tennessee does not fund its own competitive grant program specifically for charter school facilities or other capital related expenditures.

In 2008, the Tennessee Department of Education received $23.8 million in federal funds for the Charter School Program (CSP) grant.[66] TDOE has awarded grants to 68 charter schools, with an average award of approximately $333,000, although total amounts vary by school and year of the award.[67] The CSP grant is used to assist charter schools in the planning, program design, and initial implementation of their school prior to opening to students. Charter schools may use the funds for rental or occupancy costs for the school facility for a "reasonable period of time in preparation for the school's opening"; however, the grant is not intended to cover long-term operational costs such as monthly lease agreements. In 2015, 27 states applied to the USDOE for additional grant funding under the CSP, with priority given to those who had never received a CSP grant. Tennessee was not one of the eight states to receive an award.[68]

Other states

Georgia has created a competitive grant program for charter schools. In 2016, the state appropriated $1.4 million for the facilities grant, which provides capital funding to successful applicants. Eligible charter schools are those that opened prior to 2012 and meet certain audit and performance standards. Charters may use the funds for renovation or construction costs, such as HVAC, electrical, or plumbing repairs or classroom buildouts, such as new science labs. The funds may not be used for rent or lease payments, but may be used toward the purchase of real property, permanent facilities, or portables. Grant amounts range from $100,000 to $150,000 depending on the purpose outlined in the application, although recipients may receive partial grant amounts.[69]

Connecticut has authorized approximately $20 million in bond funding since 2005 to fund competitive facility grants to charter schools to be used to make general improvements to school buildings and repay debt for school building projects. In 2010, the Connecticut General Assembly made the competitively awarded facilities grant to charter schools permanent.[70]

Profile: Facility options in states with similar taxing authority

Like school districts in eight other states, Tennessee's school systems are primarily dependent, relying on another government body, such as a city council or county commission, for local funding. As a result, some bond measure options other states have undertaken to address charter school financing for facilities are not possible. The states profiled below allow for charter schools and also have a majority of dependent school districts.[C]

Alaska: 27 charter schools

Funding for Alaska's charter schools is determined by enrollment and in the same manner as it would be for a student enrolled in another public school in the same district. Charter schools are eligible for financing through their local municipalities through the Alaska Municipal Bond Bank Authority (AMBBA). The AMBBA generates funding by selling bonds on the national market and uses the proceeds to purchase bonds from authorized borrowers in the state. This process allows smaller municipalities to have access to financing that may not otherwise be available to them due to lower bond ratings, no historical issuance of bonds or notes, or little outstanding debt. The municipalities pay the principal and interest on their debt to the AMBBA. School districts are also required to grant the right of first refusal to charter schools to lease space in district facilities.

Connecticut: 18 charter schools

Connecticut law allows for state charter schools, those authorized by the State Board of Education, and local charter schools, a public school or part of a public school that is converted into a charter school, approved by both the local or regional board of education of the school district in which it is located and the State Board of Education. State charter schools are funded primarily through the state charter school grant program. Similar to Tennessee's funding mechanism for charter schools, where charter schools may use the capital outlay portion of BEP funds for facility related costs, Connecticut's charter schools may use these grant funds for any costs associated with the operation of a school, including the acquisition and maintenance of suitable facilities. The state has also authorized approximately $20 million in bond funding since 2005 to fund competitively awarded facility grants to charter schools for use in making general improvements to school buildings and repaying debt for school building projects. In 2010, the Connecticut General Assembly made the competitively awarded facilities grant to charter schools permanent.[71]

Maine: 5 charter schools

Maine does not provide any facility funding for charter schools; however, charter schools may purchase or lease public school facilities at or below fair market value.

[C] The number of charter schools reported for each state is for the 2013-14 school year. Source: National Alliance for Public Charter Schools.

Maryland: 52 charter schools

Maryland does not provide any facility funding for charter schools; however, county boards must notify charter schools of any unused buildings or sites and allow the charter school to use the facility on the board's terms.

Massachusetts: 81 charter schools

The Massachusetts Charter School Loan Guarantee Fund, through the Massachusetts Development Finance Agency, provides guarantees for bank loans or tax-exempt bonds financing the acquisition, construction, or renovation of charter school facilities. The amount of the loan guaranteed is dependent on whether or not the charter school owns or leases their facility.

North Carolina: 128 charter schools

Similar to Tennessee, North Carolina does not require school districts to share some funding for capital expenditures with charter schools. North Carolina allows charter schools to access tax-exempt financing through bonds issued by the North Carolina Capital Facilities Finance Agency. Every bond issued by the agency is payable solely from revenues derived from each entity financed, is separately secured, and is separate and independent from all other series of bonds as to source of payment and security. The agency approved over $30 million in financing for construction and refinancing in 2013-14.[72]

Rhode Island: 19 charter schools

Charter schools in Rhode Island may seek reimbursement from the state for a share of school capital projects, including principal and interest. Charter schools are eligible to receive 30 percent of state share reimbursements.

Virginia: 6 charter schools

Virginia law does not provide any funding mechanisms for charter school facilities. School districts may negotiate contracts with charter schools for the use of vacant or unused public school buildings; however, state law indicates that no public charter school shall be required to pay rent for school district facilities, when available. Charter schools may be responsible for costs of the operation and maintenance of the facilities subject to negotiation between the charter school and the school district.

Endnotes

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