

Legislative Brief: Charter School Task Force Report – February 2011

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Introduction

Directive

In 2008, the Tennessee General Assembly passed Public Chapter 1133 (see Appendix A) directing the Comptroller's Offices of Research and Education Accountability (OREA), in consultation with the Tennessee Department of Education and the State Board of Education to appoint a task force to study and evaluate Tennessee's charter school law. In March 2010, the first Charter School Interim Task Force Report was released.¹

In 2010, the Tennessee General Assembly amended *Tennessee Code Annotated (T.C.A.)* 49-13-129 with Public Chapter 930 (see Appendix B) which created a second charter school task force to be coordinated by OREA. This is the second Charter School Task Force Report.

The first charter school law in Tennessee was passed in 2002 and is known as the "Tennessee Public Charter Schools Act of 2002" (*T.C.A.* Title 49, Chapter 13). The law was subsequently revised in 2004, 2005, 2008, 2009, and 2010. The major revisions focus on three charter school policy issues: the number of charter schools allowed in Tennessee, student eligibility to attend charter schools, and the term of a charter agreement.

- 1. Cap on the number of charter schools** - In 2009, Public Chapter 555 raised the cap on the number of charter schools allowed statewide to 90 and lifted the cap on the number of conversion charter schools.
- 2. Student eligibility requirements** - In 2009, Public Chapter 555 revised the student eligibility requirements to include students who are eligible for free or reduced-price lunch and who are enrolled in LEAs that have an average daily membership (ADM) of 14,000 students or more and three or more high priority schools. Furthermore, Public Chapter 555 specified that any LEA operating in the state may choose by a two-thirds majority vote of the local board of education to allow students eligible for free or reduced-price lunch to be eligible to attend charter schools.
- 3. The term of a charter agreement** - In 2009, Public Chapter 555 extended the term of the charter agreement period to 10 years with an interim review of charter schools to be conducted by LEAs in the fifth year of a charter school's initial period of operation or renewal.

Membership

The 2010 task force membership included:

- six local education agency (LEA) representatives, consisting of two representatives appointed by each LEA with approved and operational charter schools,
- six charter school representatives appointed by the Tennessee Charter Schools Association,
- one representative from the Tennessee Department of Education (DOE), and
- one representative from the Tennessee State Board of Education (SBOE).

Staff from the Comptroller's Offices of Research and Education Accountability coordinated communication among task force members.

State Representatives

Merrie Clark
Tennessee Department of Education

Rich Haglund
Tennessee State Board of Education

LEA Representatives

Alan Coverstone
Metropolitan Nashville Public Schools

Dan Killian
Metropolitan Nashville Public Schools

Charisse Sales
Memphis City Schools

Rick Smith
Hamilton County Department of Education

Stacey Thompson
Memphis City Schools

Mary Ann Voss
Hamilton County Department of Education

Charter School Representatives

Cary Booker
Omni Prep -North Pointe Middle School, Executive Director

Marie Daly
Ivy Academy, Executive Director

Randy Dowell
KIPP Academy Nashville, Principal

John Eason
Tennessee Charter Schools Association
Board Member

Matt Throckmorton
Tennessee Charter Schools Association

Curtis Weathers
Memphis Academy of Health Sciences, Principal

OREA Coordinators

Phillip Doss
Rebecca Wright

Methodology and History of Task Force Communications

- On August 24, 2010, OREA (represented by Phillip Doss) met with Merrie Clark (TDOE) and Rich Haglund (SBOE). The purpose of the meeting was to discuss the format of the final report, determine areas for task force focus, and propose meeting times and locations.
- On August 26, 2010, OREA sent an e-mail to task force members with the notes from the August 24 meeting attached.
- On September 9, 2010, OREA sent task force members an e-mail proposing that a series of consensus statements be created and discussed prior to the first meeting.
- From September 3–21, 2010, task force members responded to discussion questions organized around the following issue areas:
 - Charter school application and authorization process
 - Standard waivers for charter schools
 - Multiple authorizers
 - State charter school authorizer and State Charter School LEA
 - Streamlining the charter school renewal process
 - Charter school transportation funding
- On October 25, 2010, OREA convened a meeting in Memphis to review input and to continue to receive input from Memphis-area task force members.
- On November 19, 2010, OREA convened a meeting in Nashville to review input and to continue to receive input from Nashville-area task force members.
- On December 19, 2010, OEA convened a meeting in Chattanooga to review input and to continue to receive input from Chattanooga-area task force members.

Background

Charter schools are publicly funded schools sponsored and operated by not-for-profit organizations. They are affiliated with a school district through a written contract, but may operate independent of many regulations that apply to traditional public schools. A charter agreement between an LEA and a charter school sponsor organization is “a shell, into which the operators place an instructional and management program.”² Charter schools vary in their programmatic emphases and governance structures.

Charter school policy in large measure is guided by the two principles of autonomy and accountability. Charter schools are public schools, but have greater freedom to develop their own mission and values, educational programs, governance models, and organizational structures. In return they are subject to heightened accountability. For example, charter schools can be shut down after two years of failing to make adequate yearly progress (AYP). LEAs monitor charter school performance on state assessments and hold charter schools accountable for fulfilling the conditions of charter agreements.

In a ranking of state charter school laws, the National Alliance for Public Charter Schools lists 20 essential components of a strong public charter school law. Among these components are several issues raised by the task force, including multiple authorizers, employment retirement systems, capital funding and facilities, and the charter application process.¹

In an issue brief, the National School Boards Association (NSBA) argues that charter schools should be required to “abide by the same environmental, labor, due process, and fiscal laws” as traditional public schools. The NSBA does not support multiple authorizers and suggests that within existing LEAs charter schools take the form of “magnet schools highlighting the arts, technology or math and science.”³

Tennessee’s Charter Schools⁴

Tennessee’s 29 charter schools currently enroll 7,207 students, or 0.7 percent of all public school students in the state.

- Memphis’s 22 charter schools enroll 5,637 students, or 5.2 percent of all public school students in Memphis.
- Nashville’s 5 charter schools enroll 1,313 students, or 1.7 percent of all public school students in Nashville.
- Chattanooga’s 2 charter schools enroll 257 students, or 0.6 percent of all public school students in Chattanooga.

Although Tennessee charter schools enroll 0.7 percent of public school students, they account for 1.6 percent of the total number of public schools. This indicates that, on average, charter schools tend to be smaller than traditional public schools.

- Memphis’s 22 charter schools constitute 11.9 percent of all public schools in Memphis.
- Nashville’s 5 charter schools constitute 3.8 percent of all public schools in Nashville.
- Chattanooga’s 2 charter schools constitute 2.7 percent of all public schools in Chattanooga.

Exhibit 1: Tennessee Charter Schools, by Local Education Agency (LEA), 2010–11

	Year Opened	Current Grade Range	Planned Grade Range	Enrollment
Memphis				
Circles of Success Learning Academy	2003	K–5	Reached	210
Memphis Academy of Health Sciences	2003	6–8	Reached	314
Memphis Academy of Science & Engineering	2003	6–12	Reached	649
City University School of Liberal Arts	2004	9–12	Reached	372
STAR Academy	2004	K–5	Reached	243
Memphis Business Academy	2005	6–8	Reached	361
Promise Academy	2005	K–5	Reached	403
The Soulsville Charter School	2005	6–11	6–12	390
Southern Avenue Charter School of Academic Excellence & Creative Arts	2005	K–5	Reached	211
KIPP Diamond	2008	5–8	Reached	446
Memphis Academy of Health Sciences High School	2008	9–11	9–12	290
Memphis Business Academy High School	2008	9–11	9–12	342
Power Center Academy	2008	6–8	Reached	331
Freedom Preparatory	2009	6–7	6–12	204
City University Boys Prep	2009	6–7	6–8	112
Memphis College Preparatory Elementary School	2010	K	K–5	68
Memphis School of Excellence	2010	6–9	6–12	290
New Consortium of Law and Business	2010	7	6–12	39
Omni-Prep North Pointe Lower School	2010	K–1	K–4	96
Omni-Prep North Pointe Middle School	2010	5–6	5–8	79
Southern Avenue Middle School	2010	6	6–8	103
Veritas College Preparatory Leadership Academy	2010	6	6–8	84
Nashville				
Smithson-Craighead Academy	2003	K–4	Reached	250
KIPP Academy Nashville	2005	5–8	Reached	312
LEAD Academy	2007	5–8	5–12	404
Smithson-Craighead Academy Middle School	2009	5–8	Reached	253
New Vision Academy	2010	5–6	5–8	94
Chattanooga				
Chattanooga Girls Leadership Academy	2009	6–10	6–12	129
Ivy Academy	2009	9–11	9–12	128
Totals (2010-11)	29 charter schools / 7,207 charter school students			

Sources: Memphis City Schools, Office of Charter Schools; Metropolitan Nashville Public Schools, Office of Charter Schools; Tennessee Department of Education, Office of Charter Schools and Choice.

Exhibit 2: Tennessee Charter Schools Approved to Open 2011–12, by Local Education Agency (LEA)

	2011–12 Grade Range	Planned Grade Range	Projected Initial Enrollment
Memphis			
Power Center Academy High School	9	9–12	125
KIPP MEMPHIS Collegiate High School	9	9–12	100
Memphis Business Academy Elementary School	K–1	K–5	76
Nashville			
Cameron Prep	5	5–8	150
East End Preparatory	K	K–4	80
STEM Preparatory Academy	5	5–8	100
Drexel Preparatory Academy	K–4	K–8	240
Liberty Collegiate Academy	5	5–12	100
Nashville Preparatory Charter School	5	5–12	87
Chattanooga			
Chattanooga Charter School of Excellence	K–1	K–5	125
Shelby County			
The New Consortium of Law and Business	7	6-12	35

Source: Tennessee Department of Education, Office of Charter Schools and Choice.

Issues Identified

Task force members identified the following issues for discussion:

- Charter school facilities
- Charter school funding (equalization of charter school payments and charter school state level payer)
- Post-retirement health care benefits for charter school teachers
- Transportation for charter school students
- Charter school application (standard waivers, multitier application, streamlining application materials)
- Compliance with state reporting requirements
- Multiple charter school authorizers
- Conversion charter schools
- Charter board training
- Open enrollment for charter schools

The highlighted text in the following sections provides a summary or quote from the appropriate charter school statute (*T.C.A.*), rule (SBOE), or guidelines that govern the issue being presented.

Facilities

“...the department of education shall calculate the amount of state funding required under the BEP for capital outlay as a non-classroom component to be received in a fiscal year by an LEA in which one (1) or more charter schools operate. The department shall reserve from the sum for such LEA the funds that constitute the amount due to charter schools operating in the LEA and shall not distribute such reserved amount to the LEA. The department shall distribute from the reserved amount directly to each charter school its total per pupil share as determined by its average daily membership (ADM). The per pupil share of each charter school shall be based on prior year ADM, except that the per pupil share of any charter school in its first year of operation shall be based on the anticipated enrollment in the charter agreement... the per pupil funding required to be paid directly by the department to a charter school under this subsection (c) shall be used solely for charter school facilities.” [T.C.A.49-13-112(c)(1)-(2)]

“The chartering authority may endorse the submission of the school credit bond application to the local taxing authority, if the project is a qualified project” [T.C.A. 49-13-124]

“Pursuant to T.C.A. 49-13-124, the chartering authority may endorse the submission of the qualified zone academy bond application to the local taxing authority. The chartering authority may endorse such a bond application submitted by the charter school governing body, or the chartering authority may include the charter school’s project as part of the chartering authority’s bond application.”

[SBOE Rule 0520-14-01-.03(3)]

The General Assembly added language to Tennessee’s charter school law in 2009 that requires the state capital outlay portion of the BEP to be paid directly to each charter school. Prior to this change the state capital outlay portion of the BEP was distributed to each charter school through its LEA. This statutory change does not establish additional funding for charter school facilities. The legislation made Tennessee eligible for the federal facilities incentive grant, but the state did not receive this grant.

Charter school representatives on the task force noted that finding and financing adequate facilities remains a significant challenge for Tennessee charter schools.

Issues that may affect charter school facilities

The following issues identified by task force members may affect charter school facilities:

- Distribution of funding for charter school facilities
- Financing for charter school facilities
- Leasing school buildings from LEAs

Policy Consideration: State fund for charter school facilities

Some task force members proposed a state-level incentive fund to finance facilities and/or to provide financial assistance to charter schools.

Policy Consideration: State office or contractor to assist charter schools with the identification and financing of facilities

Some members suggested that the state, through a state agency or by contract, could locate and list incubator buildings that start-up charter schools could use for the first two years of operation, during which time charter organizers could set aside funds to purchase or lease their own buildings.

Some members suggested that the state could create a state facilities office that would own or lease buildings and lease or sublease them to charter schools.

Some members noted that the short period of time between approval and start-up can make locating and securing suitable facilities problematic. Inventories of existing facilities would save start-up charter schools time and would also be an incentive for the creation of more charter schools.

Policy Consideration: Charter school bond pool

Currently, state law allows LEAs to include charter schools in their requests for bond funding from local taxing authorities or charter schools to apply directly. Some members noted that charter schools might also be able to join together to create a charter school collaborative organization to administer a charter school bond pool. Although individual charter organizations might move in and out of the pool, the pool itself would remain relatively stable. Some members suggested that the state administer and serve as guarantor for such a charter school bond pool. Currently, charters are issued for 10 years. In school districts, bond issues are typically for 20 years for facilities with a useful life of 40 years.

Some states (Colorado and California) allow charter schools to be included in their general obligation bonds (either through the state or local government), but these bonds can be quite difficult for charter schools to manage.⁵ Colorado law allows for the creation of moral obligation bonds, which provide that the state (or other government entity) will promise to repay a default charter school bond; however, the state is not legally liable for moral obligation bonds.⁶ Additionally, many states such as Colorado, Michigan, Massachusetts, and Texas, as well as Washington D.C., allow public finance entities (including local governments) to issue tax-exempt bonds for charter schools to be used for charter school facilities.⁷ Some states, including Texas, have created new public finance entities specifically to provide financing for charter school facilities.⁸ These public finance entities are referred to as “conduits.”⁹

Policy Consideration: Charter schools leasing/sharing existing LEA buildings

Some members noted that, based on availability, charter schools could occupy empty classrooms and essentially share a school building with another public school. Metropolitan Nashville Public Schools (MNPS) currently leases unused public school buildings to charter schools and gives charter schools first pick when old buildings become available. Memphis City Schools (MCS) leases buildings that were either closed or merged with other schools—currently, there are three such buildings leased to charters in Memphis.

Although the general consensus among charter school representatives on the task force was that existing school buildings were desirable for charter schools, some task force members noted that empty buildings are often in need of major repairs, the cost of which would not be feasible for most start-up charter schools.

Charter School Funding

How much?

“A local board of education shall allocate to the charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal law or regulation, including, but not limited to, Title I and ESEA funds.” [T.C.A. 49-13-112(a)]

“Allocations shall be based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes, excluding the proceeds of debt obligations and associated debt service.” [T.C.A. 49-13-112(b)(1)]

When?

“Allocations must be delivered to the school at the time of receipt by the LEA. Allocations may be prepaid pursuant to agreement between the LEA and the charter school.” [SBOE Rule 0520-14-01-.03 (1)(d)]

“...10 payments distributed by the State Department of Education...” [SBOE Rule 0520-14-01-.03 (2)]

Calculated based on ADA or ADM?

“State and local fund allocations are determined for each LEA on the basis of prior year average daily membership (ADM).” [SBOE Rule 0520-14-01-.03 (2)]

Calculated based on prior year or current year?

“State and local fund allocations are determined for each LEA on the basis of prior year average daily membership (ADM)...However, twice a year, once in February and once in June, funds are adjusted based on actual enrollment in the current year.” [SBOE Rule 0520-14-01-.03 (2)]

“If payments to an LEA from the Department of Education are increased or reduced based on actual enrollment, and a charter school’s actual enrollment is higher or lower than its prior year enrollment, or than its anticipated enrollment in the charter agreement, the payments to the charter schools shall be adjusted by determining pro-rata shares of adjusted distributions based on the current year’s ADM for the LEA.” [SBOE Rule 0520-14-01-.03 (2)(a)]

“New charter schools or charter schools adding a new grade are funded based on anticipated enrollment in the charter agreement. Those figures are then subsequently adjusted to reflect the actual number of students enrolled.” [SBOE Rule 0520-14-01-.03 (2)(e)]

Issues that may affect charter school funding

The following issues identified by task force members may affect charter school funding:

- Distribution of charter school funding
- State level payer

See Appendix C for a sample charter school funding calculation sheet.

Policy Consideration: Equalization of payments

Under current practice the state makes 10 BEP payments to LEAs per year. However, some LEAs do not make payments of the local shares of BEP funds to charter schools until the LEAs receive tax revenue from the local governing body. The effect of this policy is that charter schools may not receive payment of the local shares of BEP funds until late in the school year. MCS currently pre-pays charter schools from its reserves, a practice which

it may not continue. MNPS currently pays charter schools 10 equal monthly payments of local funding. Hamilton County Schools currently does not do so. Instead, it gives charter schools a lump sum in February or March when it has received its portion of the tax revenue.

Some task force members suggested amending the charter school law to require LEAs to pay 10 equal monthly payments, including state and local shares, to charter schools. Some members pointed out that this would require school systems to distribute funds that they have not yet received from local sources of revenue. Several states (New Jersey, Massachusetts, Minnesota, New York, and Pennsylvania) require an equal distribution of funding to charter schools a certain number of times per year (ranging from quarterly payments in Massachusetts to bimonthly payments in Minnesota).¹⁰ It is not clear whether any of these payments are in advance of same-year revenue receipts.

Some members noted that *T.C.A.* 49-3-352 (which deals with reserve funding) could be amended to include a provision for charter school funding. This would allow LEAs to deposit charter school funds in the reserve fund the year prior to the fund's distribution, which would enable the LEA to disperse the funds evenly over 10 equal monthly payments. In other words, local charter school funds would be set aside the year prior to their use and distributed in 10 equal monthly payments the following year. Another member noted that the district could allocate funds for a charter school the year that it opens and then set aside additional funds in a reserve fund for the following school year. These approaches would require pre-funding of the local match based on estimated or actual ADM for the charter schools involved.

Policy Consideration: State level payer

Some members suggested the establishment of a state level payer to distribute both state and local charter school funding. In this proposal, LEAs would send local charter school funding directly to the state, and the state level payer would distribute all BEP funds directly to the charter schools. Some members noted that this proposal would require a specific accounting of the local share of the BEP for charter schools. Some states, such as Minnesota, pay charter schools directly.

Some members suggested expanding this proposal by creating a state charter school office or establishing new responsibilities for the Office of Charter Schools and Choice within the Tennessee Department of Education. This office could:

- administer appropriated and/or grant funds as incentives to establish new charter schools
- calculate state and local shares of the BEP due to each charter school
- distribute state and local shares of the BEP to each charter school

Post-Retirement Health Care Benefits

“Teachers, as defined in 8-34-101, of a public charter school shall participate in the group insurance plans authorized in title 8, chapter 27, part 3 in the same manner as teachers of the LEA.” [T.C.A. 49-13-119]

“All teachers and employees of a public charter school that converts from a public school shall continue to participate in the same retirement program as the teachers and employees of the local board of education to which the charter school is associated. Such participation shall be under the same terms and conditions as the teachers and employees of the local board of education. For retirement purposes, all teachers and employees of such a public charter school shall be considered employees of the local board of education and such board of education shall be responsible for all reporting and submission of funds to the appropriate retirement system.” Note: The same applies to teachers and employees of a new public charter school. [T.C.A. 8-35-242]

Governmental Accounting Standards Board Statement Number 45 (GASB 45) requires governmental entities to report their accrued liabilities of post-retirement benefits. State law also requires LEAs to contribute to the retirement system. Under current practice, charter schools are paying current costs for participation in the health care plans of their respective LEAs and the LEAs carry the post-retirement benefit liability required under GASB 45. Although there is no requirement to pre-fund post-retirement benefits, periodic actuarial valuations that show high post-retirement liability can affect a governmental entity’s bond rating. The extent to which funds are set aside for post-retirement benefits is a local policy decision.

Some members suggested that charter schools should have the option either to provide for their own post-retirement health care benefits or pay for the LEA to provide these services. Other members suggested that LEAs might adjust the employment period before which teachers could qualify for post-retirement benefits.

Transportation

“If a public charter school elects to provide transportation for its pupils, the transportation shall be provided by the school or by agreement with the LEA within the district in which the school is located in the same manner it would be provided if the students were enrolled in any other school within the LEA. If a public charter school elects not to provide transportation for its pupils, the school shall not receive the funds that would otherwise have been spent to do so.” [T.C.A.49-13-114(a)]

There is a general consensus among task force members that, for purposes of transportation funding, existing statutes that govern transportation services provided by LEAs could apply to charter schools. Current statute requires that charter schools provide transportation “in the same manner” as LEAs in order to receive transportation funding. There are currently no criteria or established authorities for determining what constitutes “in the same manner.” Some LEAs have been interpreting “in the same manner” to mean that charter schools must use the same routes and transportation zones as the LEA. Some members suggested amending the statute by replacing “in the same manner” with “in accordance with Tenn. Code Ann. Title 49, Chapter 6, Part 21” [the statutes on transportation]. This would allow charter schools to receive payment for providing transportation as long as it was in a manner aligned with statutory requirements.

Charter School Applications

“The sponsor of a public charter school must file a public charter school application with the local board of education on or before October 1 of the year preceding the year in which the proposed public charter school plans to begin operation.” [T.C.A.49-13-106(b)(1)(A)]

“Except where waivers are otherwise prohibited in this chapter, the sponsor of a proposed public charter school may apply to either the LEA or to the commissioner of education for a waiver of any state board rule or statute that inhibits or hinders the proposed charter school’s ability to meet its goals or comply with its mission statement.”[T.C.A. 49-13-105(b)]

Issues that may affect charter school applications

The following issues identified by task force members may affect charter school applications:

- Waivers
- Organization and presentation of the application

Policy Consideration: Standard waivers

There is a general consensus among task force members that a standard set of waivers of rules could simplify the charter agreement. Currently, charter school sponsors can apply either to the LEA or to the Commissioner of Education for waivers. Task force members noted that if the Commissioner granted waivers for a charter school in one LEA, it would seem logical that those waivers should be granted in other LEAs. Similarly, if an LEA granted waivers to one charter school, it would seem logical that those waivers should be granted for other charter schools. Some members noted that a standard set might not be exclusive of other waivers agreed to by the charter school and the LEA/state. This issue could be established in board rules or department guidelines. Some task force members noted that this might be misconstrued to mean that a set of standard waivers are the only waivers that could be granted. Some members suggested that it might be preferable for the charter school board members and local school board members to receive training on any waivers the school board cannot grant based on state and federal law.

Other members noted that the statute could be amended to require that an explanation of the waivers and the rationale for seeking those waivers be included in the charter school application. If the waivers included in the charter school application became grounds for a denial of an application by the LEA, the charter school sponsors could appeal to the SBOE. Decisions from such an appeal could set precedent for future waiver applications.

Policy Consideration: Multitier Application

There is a general consensus among task force members that a multitier application process could be more efficient for both LEAs and applicants. The tiers could be based on the point values assigned to charter school applications by LEAs. This would allow LEAs to exclude applications with very low scores and to focus on potentially viable applications that could be improved and eventually approved. Some members of the task force noted that this would encourage applicants to adhere closely to the requirements of the application process.

Task force members discussed amending the application statutes to limit appeals to the full State Board of Education to those applications that meet a certain threshold, while allowing the executive director of the State Board to rule on appeals of initial applications that were scored too low to progress to an amended application.

Policy Consideration: Streamlining of application

There is a general consensus among task force members that the application process could be simplified with regard to the printed narrative presentations in the application without compromising the integrity of the

application process. This might be accomplished by:

- limiting each section to 100 pages
- standardizing placement of material within the application rather than in appendices
- referring with standard reference notation to official texts (such as statutes, rules and regulations) rather than including copies of such texts in the application

Some members noted that charter schools and LEAs could collaborate to decide which elements of the application are unnecessary. The National Association of Charter School Authorizers addresses this issue in its best practices for charter school applications. Streamlining the application process would not necessarily require amendments to current statute but could be established through district policy changes.

Compliance with State Reporting Requirements

“The governing body of the public charter school shall make at least an annual progress report to the sponsor of the school, the chartering authority and the commissioner of education. The report shall contain at least the following information:

1. The progress of the school towards achieving the goals outlined in its charter;
2. The same information required in the reports prepared by local boards of education pursuant to state laws, rules and regulations; and
3. Financial records of the school, including revenues and expenditures.

. . . . Based on the information provided to the commissioner of education under subsection (a), the commissioner shall prepare and submit an annual report on charter schools to the joint oversight committee on education.” [T.C.A. 49-13-120(a)-(b)]

Charter school boards must submit an audit of “accounts and records” annually “to the local board of education, the special joint oversight committee on education, the commissioner of education, and the comptroller of the treasury.” The audit is to be completed as soon as practical after June 30 of each year. [T.C.A. 49-13-127(b)(1)-(2)]

Issues that may affect charter schools’ compliance with state reporting requirements

The following issues identified by task force members may affect charter schools’ compliance with state reporting requirements:

- Clarification of reporting requirements
- Reporting requirements timeline
- Audit submission

Policy Consideration: Clarification of reporting requirements

There is a general consensus among task force members that clarification of responsibility for compliance with state reporting requirements would improve performance in this area. This clarification could be accomplished in guidelines or rules. Some task force members noted that LEAs are responsible for reporting to the state and rely on information provided by individual schools to develop those reports. Some members suggested the creation of a timeline that would outline what the mandated reporting requirements to the state, including reporting deadlines.

Policy Consideration: Audit submission

Some members suggested submitting the annual audit of charter school accounts and records required by T.C.A. 49-13-127(b)(1)-(2) either to the state or the school district, and not both as is currently the case.

Multiple Charter School Authorizers

“The local board of education shall have the authority to approve applications to establish public charter schools and renew public charter school agreements.” [T.C.A. 49-13-108(1)]

Some task force members proposed the establishment of multiple authorizers of charter schools. The proposals included allowing continued authorization by LEAs as well as the creation of a state level authorizing agency. Some members noted that a state authorizing agency could help rural charter schools in districts that do not have the financial capacity to allocate resources for the purpose of authorizing or administering charter schools. Fifteen states allow multiple authorizers for charter schools, including state commissions, universities, and nonprofit organizations.¹¹

Conversion Charter Schools

An eligible public school may convert to a public charter school pursuant to this chapter if the parents of sixty percent (60%) of the children enrolled at the school or sixty percent (60%) of the teachers assigned to the school agree and demonstrate support by signing a petition seeking conversion and the LEA agrees to the conversion. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty. [T.C.A.49-13-106(b)(2)(A)]

“A LEA may convert an eligible public school to a public charter school pursuant to subdivision (a)(1)(B). Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty.” [T.C.A.49-13-106(b)(2)(B)]

A public school in Restructuring 2 — Alternative Governance under § 49-1-602(g), at the option of the commissioner of education, may be converted to a public charter school. Parents whose children are enrolled at the school shall have the option to enroll their children in another public school without penalty. [T.C.A.49-13-106(b)(2)(E)]

Issues that may affect conversion charter schools

The following issues identified by task force members may affect conversion charter schools:

- Feeder school students
- Sponsoring agency

Policy Consideration: Feeder school students

Some members suggested amending state law to allow feeder school students to attend conversion charter schools. This issue was raised in the first Charter School Task Force Report. LEAs attempt to locate middle schools in close proximity to “feeder” elementary schools. If a middle school were to convert to a charter school, students from the feeder elementary schools would either need to be granted eligibility to attend the charter or would have to be transported to another middle school.

Policy Consideration: Sponsoring agency

Under current statute, newly created public charter schools must be operated by a 501(c)(3) organization. The process of converting a traditional public school to a charter school might be simplified by a review of this requirement for conversion charter schools, a clarification of the relationship between such an organization and the authorizing LEA, and a clarification of the timing for formation of such an organization.

Some members suggested that the state should be able to authorize conversion charter schools and allow LEAs to act as the governing body of conversion charter schools; however, if an LEA is the governing body of a charter school, that school will not qualify for Federal start-up grant funds.

Charter Board Training

“Governing body’ means the organized group of persons who will operate a public charter school by deciding matters, including, but not limited to, budgeting, curriculum and other operating procedures for the public charter school and by overseeing management and administration of a public charter school. The membership of a charter school’s governing body shall include at least one (1) parent representative whose child is currently enrolled in the charter school.” [T.C.A.49-13-104(3)]

“...a public charter school’s board shall issue an interim report of its most recent training to the LEA in which the public charter school is located no later than sixty (60) days after August 1, 2010.” [T.C.A. 49-13-129]

Some task force members suggested amending state law to require an introductory training course and ongoing professional development for charter school board members. T.C.A. 49-2-202 mandates that the SBOE set annual training requirements for local school board members. The Commissioner of Education may remove from office any local board member who fails to attend the annual training prescribed by the SBOE. The following is an excerpt from the TDOE/SBOE Administrative Rules and Regulations:

0520-01-02-.11 SCHOOL BOARD TRAINING.

(1) Every member of a local board of education shall participate annually in seven hours of training provided by the School Board Academy.

(2) The School Board Academy shall be administered by the State Department of Education.

(3) The annual program of the School Board Academy will consist of modules approved by the State Board of Education. The Tennessee School Boards Association (TSBA) shall develop and conduct the majority of the approved modules.

(4) A School Board Academy Advisory Committee shall be established by the State Board of Education. The Advisory Committee will be responsible for evaluating academy programs. The Advisory Committee will also be responsible for recommending an annual program plan for the academy prior to the beginning of each school year for approval by the State Board of Education. The Advisory Committee will include the Executive Director and the President of the Tennessee School Boards Association, a member of the State Board of Education, the President of the Tennessee Organization of School Superintendents, and the Commissioner of Education or his designee. It will also include others appointed by the State Board of Education for terms designated by the State Board of Education.

Some members suggested allowing the Tennessee Charter Schools Association to certify charter school board training. The association currently provides management support to charter schools that are members of the association.

Open Enrollment

The following student populations are given priority in charter school enrollment:

- Students previously enrolled in a charter school,
- Students who are assigned to or enrolled in a school failing to make AYP,
- Students who failed to test proficient on TCAP reading or math in the previous school year, and
- Students who failed to test proficient on end-of-course assessments in reading or mathematics in the previous school year. [T.C.A. 49-13-106(a)(1)(A)-(D)]

In LEAs with ADM of 14,000 or more and three or more high priority schools, if the number of students seeking to enroll who meet these requirements does not exceed the school's capacity at the end of the initial student application period, then a charter school may enroll students who are eligible for free or reduced-price lunch (FRPL). Local school boards in other districts may vote to allow students eligible for FRPL to be eligible to attend charter schools at the end of the initial student application period. [T.C.A. 49-13-113(d)]

Issues that may affect open enrollment

The following issues identified by task force members may affect open enrollment at charter schools:

- Lottery system
- Weighting charter school applications

A full open enrollment policy would mean that any student would be eligible to attend a charter school. If the demand for spaces at charter schools exceeded the supply under such a policy, a method for assigning students to schools would have to be developed.

Policy Consideration: Lottery system

Some task force members suggested using a lottery system to select the students (among those interested) who would be able to attend the charter school of their choice. This system could weight all students equally or could weight students based on current charter school student eligibility requirements.

Policy Consideration: Weighting charter school applications

Some task force members pointed out that if an open enrollment policy were implemented charter school applications could be weighted based on the school's target population. For example, a charter school targeting at-risk students would receive a higher weighting than a charter school that is serving all students. This could address the concern that open enrollment would remove the focus of charter schools from students eligible for free- and reduced-price lunch (FRPL) and students in high priority schools.

Some members proposed a modified open enrollment policy. If the number of students eligible under current criteria does not exceed the capacity of a program, class, grade level, or building, then, after the initial student application period, the charter school could open enrollment to all students.

Conclusion

This charter school task force was able to make consensus statements regarding the following issues:

- transportation;
- a standard set of waivers;
- multitier applications;
- printed material presented in the application; and
- reporting guidelines.

The task force was also able to continue discussions on other issues, some of which were raised in the previous report, including:

- facilities;
- BEP payments;
- post-retirement health care benefits;
- open enrollment;
- charter school board training; and
- conversion charter schools.

Endnotes

- ¹ Erin Do and Phillip Doss, *Charter School Task Force Report*, Tennessee Comptroller of the Treasury, Offices of Research and Education Accountability, March 2010, <http://www.comptroller1.state.tn.us/Repository/RE/CSTFReport2010.pdf> (accessed Feb. 5, 2011).
- ² Todd Ziebarth, "Measuring up to the Model: A Ranking of State Charter School Laws," National Alliance for Public Charter Schools, Jan. 2011, p. 3, http://www.publiccharters.org/files/publications/2011_NAPCS_StateCharterLawRankingsReport.pdf (accessed February 4, 2011).
- ³ National School Boards Association, "Issue Brief: Charter Schools," Nov. 2010, p. 3, <http://www.nsba.org/MainMenu/Advocacy/FederalLaws/Charter-Schools/Charter-Issue-Brief.aspx> (accessed February 4, 2011).
- ⁴ Penny Griffith, Tennessee Department of Education, telephone interview, Dec. 30, 2010; Merrie Clark and Eric Hilgendorf, "Charter Schools: Informing the Educational Landscape," presentation, http://www.state.tn.us/education/fedprog/doc/Charter_Schs_9-15-10.pdf (accessed Jan. 11, 2011).
- ⁵ U.S. Department of Education, Office of Innovation and Improvement, *Making Charter School Facilities More Affordable: State-driven Policy Approaches*, Washington, D.C., 2008, <http://www2.ed.gov/admins/comm/choice/charterfacilities/charterfacilities.pdf> (accessed Jan. 11, 2011).
- ⁶ Ibid.
- ⁷ Ibid.
- ⁸ Ibid.
- ⁹ Ibid.
- ¹⁰ National Alliance for Public Charter Schools, "Equitable Operational Funding and Equal Access to All State and Federal Categorical Funding", <http://www.publiccharters.org/charterlaws/component/18> (accessed Jan. 11, 2011); Massachusetts Department of Elementary and Secondary Education, "Calculation and Disbursement of Commonwealth Charter School Tuition," <http://www.doe.mass.edu/charter/finance/tuition/calculation.html> (accessed Jan. 11, 2011); Minnesota Statutes 2010, sec. 124D.11, sub. 9.
- ¹¹ The Center for Education Reform, *Multiple Authorizers in Charter School Laws*, July 2007, http://www.edreform.com/legislators/CER_multiplecharterauthorizerprimer.pdf (accessed Jan. 11, 2011).

PUBLIC CHAPTER NO. 1133

SENATE BILL NO. 3401

By Tate, Marrero, Ford

Substituted for: House Bill No. 4002

By Ulysses Jones, Hardaway, Kelsey, Lynn

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 13, Part 1, relative to public charter schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-13-106(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a)(1) Public charter schools may be formed to provide quality educational options for students. The prospective student population shall be:

(A) Students who were previously enrolled in a charter school;

(B) Students who are assigned to, or were previously enrolled in, a school failing to make adequate yearly progress, as defined by the state's accountability system, giving priority to at-risk students;

(C) Students who, in the previous school year, failed to test proficient in the subjects of language arts/reading or mathematics in grades three through eight (3-8) on the Tennessee comprehensive assessment program examinations;

(D) Students who, in the previous school year, failed to test proficient on the Gateway examinations in language arts/reading or mathematics;

(E) Students in grades kindergarten through three (K-3) who are eligible for free or reduced-price lunch, who may only be enrolled no earlier than August 1; or

(F) Students who are under the jurisdiction of a juvenile court and who in the court's judgment would benefit from a work experience and career exploration program. The proposed public charter school shall, in addition to complying with the application requirements § 49-13-107, apply to the Commissioner of Education for approval of its proposed work experience and career exploration program.

(2) First priority status shall be given to eligible students who meet the requirements set out in subdivisions (a)(1)(A) through (D). Second priority status shall be given to students eligible under subdivision (a)(1)(E). The LEA shall provide notification to parents of students eligible under subdivisions (a) (1) (B), (C) and (D). Students enrolled in a charter school under (a)(1)(E) shall not exceed twenty-five percent (25%) in grades kindergarten through three (K-3). Further, in no event shall more than twenty-five percent (25%) of the total school enrollment in grades kindergarten through three (K-3) consist of students who only meet subdivision (a)(1)(E).

(3) Any charter school enrolling students pursuant to subdivision (a)(1)(E) shall enroll such students using a random selection process. The LEA shall certify each student's eligibility to attend a charter school pursuant to subdivision (a)(1)(E). For certification purposes, upon enrollment of students eligible under (a)(1)(E), the charter school shall provide the LEA with a list of all students who applied, the date of application, all students who were accepted, and the priority category of each student accepted. Such list shall be provided no later than forty-five (45) school days after the charter school's first day of the academic school year. In cases where enrollment is after forty-five (45) school days after the charter school's first day of the academic school year, a list shall be provided on a monthly basis.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 13, Part 1, is amended by adding the following language as a new section:

§ 49-13-1___. In accordance with Section 29 of Chapter 850 of the Public Acts of 2002, the provisions of this part related to the creation of new public charter schools are hereby re-enacted and extended until July 1, 2015, at which time such provisions shall be repealed.

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 13, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 49-13-129. The comptroller of the treasury, in consultation with the Tennessee Department of Education and the State Board of Education, shall appoint a task force to study and evaluate Tennessee Code Annotated, Title 49, Chapter 13, Part 1, to address, including, but not limited to, statutory inconsistencies and technical issues, fiscal issues, administrative compliance, identification and communication of charter schools' best practices, facility needs, transportation, food services, communication between LEAs and charter schools' boards, principals and administrative staff and employee benefits, and charter school boards' accountability. The task force shall include, as a minimum, two (2) representatives from each LEA with approved and operational charter schools, two (2) charter school representatives selected by the Tennessee charter schools association, two (2) charter school parent representatives, and one (1) representative each from the State Department of Education and State Board of Education and one (1) community representative from each grand division of the state. The comptroller shall report the task force's findings and

recommendations, including recommended legislation or rules, to the general assembly by February 2, 2010.

SECTION 4. Tennessee Code Annotated, Section 49-13-106(b)(1), is amended by deleting subdivision (C) in its entirety and by substituting instead the following:

(C) Prior to the year 2011, charter schools created for the purpose stated in subsection (a) shall not exceed, statewide, fifty (50) in number, twenty (20) of which shall be located within a home rule municipality of a county with a population greater than eight hundred ninety-seven thousand four hundred (897,400), and four (4) of which shall be located within a county with a population greater than eight hundred ninety-seven thousand four hundred (897,400).

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 21, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 13th day of June 2008



PHIL BREDESEN, GOVERNOR

Public Chapter No. 930

PUBLIC ACTS, 2010

1

PUBLIC CHAPTER NO. 930

SENATE BILL NO. 3257

By Tate

Substituted for: House Bill No. 3875

By Ulysses Jones, Hardaway

AN ACT to amend Tennessee Code Annotated, Section 49-13-129, relative to charter school task force.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-13-129, is amended by deleting the section in its entirety and by substituting instead the following:

There is hereby created a task force to study and evaluate this chapter, to address, including, but not limited to, statutory inconsistencies and technical issues; fiscal issues; administrative compliance; identification and communication of charter schools' best practices; the design and method of training for charter schools' board members; facility needs; transportation; food services; communication between LEAs and charter schools' boards, principals and administrative staff; employee benefits; and charter school boards' accountability. The task force shall include, at a minimum, two (2) representatives appointed by the superintendent of Memphis City Schools; two (2) charter school representatives appointed by the superintendent of Metropolitan Nashville Public Schools; two (2) representatives appointed by the superintendent of Hamilton County Schools; six (6) representatives appointed by the Tennessee Charter Schools Association; one (1) representative from the Department of Education; and one (1) representative from the State Board of Education. The comptroller of the treasury shall be responsible for the coordination of the task force, including, but not limited to, facilitating communications among task force members. The comptroller shall report the task force's findings and recommendations, including recommended legislation or rules, to the general assembly by February 2, 2011; provided, however, that a public charter school's board shall issue an interim report of its most recent training to the LEA in which the public charter school is located no later than sixty (60) days after August 1, 2010.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 6, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

Appendix C: Sample Charter School Funding Calculation Sheet

Volunteer County

2009 - 2010 Budgeted Revenues

Local Revenues (From LEA's MOE Test)		
40110	Current Property Tax	\$ 24,708,547
40120	Trustee's Collections - Prior Year	\$ 529,600
40130	Circuit Clerk/Clerk & Master Collections - Prior Years	\$ 290,605
40140	Interest and Penalty	\$ 216,460
40150	Pickup Taxes	\$ 112,000
40210	Local Option Sales Tax	\$ 12,601,725
40320	Bank Excise Tax	\$ 55,250
40350	Interstate Telecommunications Tax	\$ 8,610
41110	Marriage Licenses	\$ 6,200
44110	Investment Income	\$ 200
46851	State Revenue Sharing - T.V.A.	\$ 1,403,000
Total Local		\$ 39,932,197
BEP Revenue (Reduced by Grand Total Capital Outlay page 5 How to Sheets)		\$ 15,000,000
Total State and Local (If charter school provides transportation or all services funded in BEP)		\$ 54,932,197
Prior Year ADM (or estimate if new charter or new grades) of LEA		10,000
State and Local Per Pupil		\$ 5,493

Begin year with Budgeted and reconcile to actual by the end of the year.

Begin with July Final figures and reconcile for Insurance adjustment and ADM growth in February and final ADM growth in June.

Use Periods 2, 3, 6, & 7. Weighted 12.5%, 17.5%, 35%, & 35%. Plus new charter grades.

Charter School does not provide transportation or other services funded in BEP		
Total State and Local (If charter school provides transportation or other services funded in BEP)		\$ 54,932,197
Less: Transportation (72710) expenditure or other services		\$ 5,000,000
Total State and Local (If charter school does not provide transportation or other services funded in BEP)		\$ 49,932,197
Prior Year ADM of LEA		10,000
State and Local Per Pupil		\$ 4,993

From Budget

Volunteer Charter School ADM (charter does not provide transportation)	200
State and Local Per Pupil	\$ 4,993
State and Local Funding	\$ 998,644
BEP Capital Outlay Funding (from charter school capital outlay sheet)	\$ 125,000
Total Volunteer Charter Funding	\$ 1,123,644

Use Periods 2, 3, 6, & 7. Weighted 12.5%, 17.5%, 35%, & 35%. Plus new charter grades.



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