



The capacity of the fund to guarantee bonds under the BGP is limited by state law and by an Internal Revenue Service (IRS) private letter ruling received by the TEA. State law limits the amount that the fund can guarantee to 5 times the current cost value of the PSF. Current SBOE rules restrict the limit to 3.5 times the current cost value of the PSF, which is currently used to calculate capacity. These limits may be utilized provided that the limit is consistent with federal law and regulations. The private letter ruling from the IRS rule limited the amount that the fund can guarantee to 5 times the cost value of the PSF on December 16, 2009; however, effective May 10, 2023, the IRS published Notice 2023-39 and removed the December 16, 2009, date limit that restricted the amount of bonds the PSF can guarantee. The Treasury Department and the IRS amended §1.148-11(d)(1)(i)(F) to provide that, as of the sale date of the bonds to be guaranteed, the amount of the bonds to be guaranteed by the fund plus the then-outstanding amount of bonds previously guaranteed by the fund does not exceed a total amount equal to 500 percent of the total costs of the assets held by the fund. The SBOE has further restricted the capacity by establishing an amount of capacity, currently 0.25%, to be held in reserve. Capacity available to charter districts is limited to the percentage of available capacity that is equal to the percentage of students enrolled in charter schools. This percentage is calculated on an annual basis. Up to 50% of the capacity available to charter districts can be used to refund existing debt. Also, the board has further restricted charter capacity by establishing an additional 0.25% to be held in reserve.

In addition, the SBOE has limited approval of the guarantee to a district with less debt than a district that falls at the 90th percentile of either annual debt service per student in average daily attendance (ADA) or total debt service per ADA at the time of the application. The limitation does not apply to a school district that has enrollment that is 25% higher than the enrollment reported five years earlier and/or that called the election authorizing the issuance of bonds before July 15, 2004.