

A-Engrossed
House Bill 2845

Ordered by the House April 13
Including House Amendments dated April 13

Sponsored by Representative HUNT; Representatives CLEM, D EDWARDS, GALIZIO, KOMP, READ, ROBLAN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows Department of Education to conduct [*financial*] **program** audit of career school. **Allows department to require career school to submit audited financial report.**

Prohibits career schools from including arbitration clause in student enrollment agreement.

Increases annual fees for career school licensure.

[*Requires Superintendent of Public Instruction to complete investigation of complaint against career school within 60 days of commencing investigation.*]

Requires Superintendent of Public Instruction to notify person submitting complaint about career school as to receipt and disposition of complaint.

Specifies maximum civil penalties that may be collected from career schools for certain violations.

A BILL FOR AN ACT

1
2 Relating to career schools; creating new provisions; and amending ORS 345.030, 345.080, 345.120 and
3 345.995.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 4 of this 2007 Act are added to and made a part of ORS 345.010**
6 **to 345.450.**

7 **SECTION 2. The Department of Education may:**

8 (1) **Require career schools to submit an audited financial report signed by an independent**
9 **certified public accountant; and**

10 (2) **Conduct program audits of career schools as provided by rule of the State Board of**
11 **Education.**

12 **SECTION 3. ORS 345.030 is amended to read:**

13 345.030. (1) [*No*] **A person [*shall*] may not** open, conduct or do business as a career school in
14 this state without obtaining a license under ORS 345.010 to 345.450.

15 (2) A license to conduct a career school shall be granted only after the applicant has presented
16 proof satisfactory to the Superintendent of Public Instruction or the representative thereof that the
17 applicant complies with applicable standards adopted under ORS 345.325. ORS 670.280 applies to
18 individuals who hold positions of authority or control in the operation of the school and to its fac-
19 ulty members and agents.

20 (3) A career school licensed in any other state must be licensed in this state before establishing
21 a physical presence in this state such as offices or agents, or both, for the purpose of solicitation
22 of students.

23 (4) The school license is nontransferable. The licensee must give 30 days prior notification to

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 the Department of Education when transferring ownership.

2 (5) Each career school shall display its license in a prominent place.

3 (6) [No] A career school [shall] **may not** be issued a license or have its license renewed until
 4 the applicant furnishes the superintendent a financial statement, certified true and accurate and
 5 signed by the owner of the school.

6 (7) [No] A career school [shall] **may not** be issued a license or have its license renewed until
 7 the applicant provides proof of compliance with the tuition protection policy established by the State
 8 Board of Education pursuant to ORS 345.110.

9 **(8) A career school may not be issued a license if the career school includes a binding**
 10 **arbitration clause in the student enrollment agreement of the career school.**

11 **SECTION 4. A career school that is licensed under ORS 345.010 to 345.450 may not include**
 12 **a binding arbitration clause in the student enrollment agreement of the career school.**

13 **SECTION 5. Section 4 of this 2007 Act becomes operative on January 1, 2009.**

14 **SECTION 6.** ORS 345.080 is amended to read:

15 345.080. (1) Before issuing any licenses under ORS 345.010 to 345.450, the Superintendent of
 16 Public Instruction shall collect the following nonrefundable, annual license fees:

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19 In-State Schools

<u>Tuition</u>	<u>Income Range</u>	<u>Fee</u>
\$ 0 -	15,000	\$ [450] 540
15,001 -	50,000	[600] 720
50,001 -	125,000	[750] 900
125,001 -	250,000	[1,050] 1,470
250,001 -	500,000	[1,350] 1,890
500,001 -	750,000	[1,650] 2,310
750,001 -	1,000,000	[1,950] 2,730
Over	1,000,000	[2,250] 3,150

29
30 Out-of-State Schools

<u>Tuition</u>	<u>Income Range</u>	<u>Fee</u>
\$ 0 -	50,000	\$ [1,350] 1,890
50,001 -	250,000	[1,650] 2,310
250,001 -	500,000	[1,950] 2,730
500,001 -	750,000	[2,250] 3,150
750,001 -	1,000,000	[2,550] 3,570
Over	1,000,000	[2,850] 3,990

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40 (2) The State Board of Education may adopt, by rule, fees for teacher registration and fees for
 41 providing copies of student transcripts maintained at the Department of Education.

42 (3) All fees collected under this section shall be paid to the credit of the department. Such
 43 moneys are continuously appropriated to the department and shall be used for the administration
 44 of the licensing program under ORS 345.010 to 345.450.

45 **SECTION 7.** ORS 345.120 is amended to read:

1 345.120. (1)(a) On the written complaint of any person, the Superintendent of Public Instruction
2 shall, and on the superintendent's own motion may, investigate the actions of any career school or
3 agent, or any person who assumes to act in either capacity within this state.

4 **(b) When the superintendent receives a complaint about a career school, within 30 days**
5 **of the date when the complaint was received the superintendent shall notify the person who**
6 **made the complaint:**

7 **(A) That the complaint was received; and**

8 **(B) Of the disposition of the complaint.**

9 (2) As a result of the investigation, and in addition to any penalty that may be imposed under
10 ORS 345.992, the superintendent may place a licensee on probation or may suspend or revoke any
11 license issued under ORS 345.010 to 345.450 when the licensee has:

12 (a) Obtained a license by misrepresentation.

13 (b) Violated ORS 345.010 to 345.450 or any applicable rule.

14 (c) Ceased to engage in the business authorized by the license.

15 (d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

16 (3) When notice of suspension or revocation is issued, the licensee shall be notified and, upon
17 request, shall be granted a contested case hearing under ORS 183.310 (2).

18 (4) A licensee placed on probation must be formally notified by the superintendent that it has
19 deficiencies that must be corrected within a time specified in the notice.

20 (5) A licensee whose license is suspended is prohibited from advertising, recruiting or enrolling
21 students but may remain in operation to complete training of students enrolled on the effective date
22 of the suspension.

23 (6) A licensee whose license has been revoked is not authorized to continue in operation on and
24 after the effective date of the revocation.

25 **SECTION 8.** ORS 345.995 is amended to read:

26 345.995. (1) After consultation with the advisory committee established under ORS 345.330, the
27 State Board of Education shall adopt by rule a schedule or schedules establishing the amount of
28 civil penalty that may be imposed for a particular violation of ORS 345.010 to 345.450. [*No civil*
29 *penalty shall exceed \$500 per violation.*] The board shall consult with the Attorney General before
30 adopting the schedule of penalties for violations of ORS 345.120 (2)(d).

31 **(2) A penalty imposed for violation of ORS 345.010 to 345.450 may not exceed:**

32 **(a) \$500 per day for the first violation;**

33 **(b) \$750 per day for the second violation occurring within three years of the date of the**
34 **first violation;**

35 **(c) \$1,000 per day for the third violation occurring within three years of the date of the**
36 **first violation; and**

37 **(d) \$2,000 per day for each subsequent violation occurring within three years of the date**
38 **of the first violation.**

39 [(2)] (3) In imposing a penalty for violation of ORS 345.010 to 345.450 pursuant to the schedule
40 or schedules authorized by this section, the Superintendent of Public Instruction shall consider the
41 following factors:

42 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
43 necessary or appropriate to correct any violation.

44 (b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.

45 (c) The economic and financial conditions of the person incurring a penalty.

1 [(3)] (4) [The] A penalty imposed under this section may be remitted or mitigated upon such
2 terms and conditions as the superintendent considers proper and consistent with the public welfare.

3 [(4)] (5) The superintendent may impose penalties [which] **that** may be remitted or mitigated on
4 condition that a particular violation not continue or occur after a certain period not to exceed 15
5 days.

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