

House Bill 2845

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 **as introduced**.

Allows Department of Education to conduct financial audit of career school.
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.
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 conduct financial audits of career**
8 **schools.**

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

10 345.030. (1) [No] **A** person [shall] **may not** open, conduct or do business as a career school in
11 this state without obtaining a license under ORS 345.010 to 345.450.

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

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

20 (4) The school license is nontransferable. The licensee must give 30 days prior notification to
21 the Department of Education when transferring ownership.

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

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

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

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.

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

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

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

SECTION 6. ORS 345.080 is amended to read:

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

<u>In-State Schools</u>				
<u>Tuition</u>	<u>Income</u>	<u>Range</u>	<u>Fee</u>	<u>Fee</u>
\$	0	- 15,000	\$ [450]	700
	15,001	- 50,000	[600]	850
	50,001	- 125,000	[750]	1,000
	125,001	- 250,000	[1,050]	1,300
	250,001	- 500,000	[1,350]	1,600
	500,001	- 750,000	[1,650]	1,900
	750,001	- 1,000,000	[1,950]	2,200
	Over	1,000,000	[2,250]	2,500
<u>Out-of-State Schools</u>				
<u>Tuition</u>	<u>Income</u>	<u>Range</u>	<u>Fee</u>	<u>Fee</u>
\$	0	- 50,000	\$ [1,350]	1,600
	50,001	- 250,000	[1,650]	1,900
	250,001	- 500,000	[1,950]	2,200
	500,001	- 750,000	[2,250]	2,500
	750,001	- 1,000,000	[2,550]	2,800
	Over	1,000,000	[2,850]	3,100

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

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

SECTION 7. ORS 345.120 is amended to read:

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

(b) If the superintendent conducts an investigation of a career school as authorized under this subsection, the period of time from the filing of a complaint or the undertaking an investigation under the superintendent's own motion to the decision by the superintendent to dismiss the complaint or to impose a sanction must not exceed 60 days.

(2) As a result of the investigation, and in addition to any penalty that may be imposed under

1 ORS 345.992, the superintendent may place a licensee on probation or may suspend or revoke any
 2 license issued under ORS 345.010 to 345.450 when the licensee has:

- 3 (a) Obtained a license by misrepresentation.
- 4 (b) Violated ORS 345.010 to 345.450 or any applicable rule.
- 5 (c) Ceased to engage in the business authorized by the license.
- 6 (d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

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

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

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

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

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

17 345.995. (1) After consultation with the advisory committee established under ORS 345.330, the
 18 State Board of Education shall adopt by rule a schedule or schedules establishing the amount of
 19 civil penalty that may be imposed for a particular violation of ORS 345.010 to 345.450. [*No civil*
 20 *penalty shall exceed \$500 per violation.*] The board shall consult with the Attorney General before
 21 adopting the schedule of penalties for violations of ORS 345.120 (2)(d).

22 [*(2) In imposing a penalty for violation of ORS 345.010 to 345.450 pursuant to the schedule or*
 23 *schedules authorized by this section, the Superintendent of Public Instruction shall consider the fol-*
 24 *lowing factors:]*

25 [*(a) The past history of the person incurring a penalty in taking all feasible steps or procedures*
 26 *necessary or appropriate to correct any violation.]*

27 [*(b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.]*

28 [*(c) The economic and financial conditions of the person incurring a penalty.]*

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

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

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

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

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

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

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