

House Bill 3438

Sponsored by Representative 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**.

Authorizes certain contiguous school districts to establish education funding district. Authorizes funding district to impose taxes for distribution to contiguous school districts. Directs Department of Revenue to administer taxes and remit revenues to funding district for further distribution to school districts. Requires elector approval of funding district formation, taxes, boundary changes and dissolution.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to education funding districts; creating new provisions; amending ORS 327.013; and pre-
3 scribing an effective date.

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

5 **SECTION 1. As used in sections 1 to 5 of this 2007 Act, "qualified school district" means**
6 **a school district, as defined in ORS 328.001, that has a population of 15,000 or less and that**
7 **is located in a county with a population of 125,000 or less.**

8 **SECTION 2. (1) Two or more contiguous qualified school districts may form an education**
9 **funding district under sections 1 to 5 of this 2007 Act.**

10 **(2) In order to form an education funding district:**

11 **(a) Each of the contiguous qualified school districts must, within a period of six months,**
12 **adopt a resolution in favor of the formation of the funding district;**

13 **(b) Each of the contiguous qualified school districts must nominate a member of the**
14 **board of the school district to be a member of the funding district formation committee;**

15 **(c) The funding district formation committee must conduct one or more public hearings**
16 **on the formation of the funding district in compliance with subsection (3) of this section;**

17 **(d) The formation committee must submit a measure to the electors of the qualified**
18 **school districts that are seeking to form the funding district; and**

19 **(e) A majority of the electors of the proposed funding district who vote on the measure**
20 **must approve the question of formation.**

21 **(3)(a) Notice of public hearings conducted by the education funding district formation**
22 **committee shall be posted in at least three public places within the proposed funding district**
23 **and published at least two times in a newspaper of general circulation in the proposed fund-**
24 **ing district. The notice shall state:**

25 **(A) The purpose for which the funding district is to be formed.**

26 **(B) The name and boundaries of the proposed funding district.**

27 **(C) The time and place of each hearing on the formation of the funding district.**

28 **(b) At the first public hearing of the formation committee, the committee shall select a**
29 **member of the committee to be the chairperson of the committee.**

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 (c) The formation committee shall consider funding mechanisms that the funding district
 2 would impose following formation, including but not limited to transient lodging taxes,
 3 entertainment taxes, general sales taxes or a combination of those taxes. The formation
 4 committee shall provide opportunity for public testimony and shall consider the testimony
 5 given in drafting a proposed formation measure to be submitted to electors of the proposed
 6 funding district.

7 (d) A formation measure must contain all of the following:

8 (A) A listing of each qualified school district that is to be within the boundaries of the
 9 proposed funding district. A qualified school district must be entirely within the boundaries
 10 of the funding district.

11 (B) The proposed tax or taxes that the funding district is to impose. The tax must meet
 12 the requirements of section 3 of this 2007 Act.

13 (C) The method by which funding district revenues are to be distributed to qualified
 14 school districts within the funding district.

15 (e) In order for the formation measure to be submitted to electors of the proposed
 16 funding district, the measure must be approved by a majority of the members of the forma-
 17 tion committee.

18 (f) An approved formation measure shall be submitted to electors at an election listed in
 19 ORS 255.345 (1).

20 **SECTION 3.** (1) An education funding district is authorized to impose any form of tax for
 21 the purpose of providing funding to the qualified school districts within its boundaries, pro-
 22 vided the tax is approved by the electors of the funding district. If the tax is an ad valorem
 23 property tax, the election must comply with the requirements of section 11 (8), Article XI
 24 of the Oregon Constitution.

25 (2) If an education funding district:

26 (a) Imposes a transient lodging tax, ORS 320.300 to 320.350 shall apply to the tax, except
 27 that ORS 320.335 (2), 320.345 and 320.350 do not apply to the tax.

28 (b) Imposes an entertainment tax, the tax shall be computed as a percentage of consid-
 29 eration paid for:

30 (A) Meals and beverages that are served for immediate consumption at the location of
 31 purchase;

32 (B) Admission to theaters, movie theaters, museums, sports facilities or other facilities
 33 intended to be used primarily for amusement, recreation or appreciation of the arts; and

34 (C) Guide services, chartering, touring or rental of sporting equipment.

35 (c) Imposes a general sales tax or sales and use tax, the tax shall comply with the
 36 Streamlined Sales and Use Tax Agreement, as amended and in effect on the date the measure
 37 imposing the tax takes effect.

38 (3) The Department of Revenue shall administer any tax imposed by an education funding
 39 district. Tax revenues collected by the department shall be held in trust on behalf of the
 40 funding district and shall be remitted to the funding districts. A working balance of tax re-
 41 venues may be retained by the department for the purposes of:

42 (a) Paying tax refunds; and

43 (b) Reimbursing the department for its expenses in administering the tax.

44 (4)(a) For purposes of administration and enforcement, unless the context requires oth-
 45 erwise, the provisions of ORS chapters 305, 314 and 316 as to the audit and examination of

1 reports and returns, confidentiality of reports and returns, determination of deficiencies,
 2 assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, con-
 3 ferences and appeals to the Oregon Tax Court, and procedures relating thereto, apply to a
 4 tax imposed under sections 1 to 5 of this 2007 Act, the same as if the tax were a tax imposed
 5 upon or measured by net income.

6 (b) Paragraph (a) of this subsection does not apply if the tax imposed by an education
 7 funding district is a sales tax or a property tax.

8 **SECTION 4.** (1) Following its formation, the governing board of an education funding
 9 district shall consist of one member from the school board of each qualifying school district
 10 within the funding district. The governing board shall select a chairperson from among its
 11 members. Each governing board member serves under the direction of the qualifying school
 12 district board that the member represents.

13 (2) The governing board of an education funding district shall hold at least one public
 14 hearing annually, at which the board shall consider proposed changes in any tax imposed by
 15 the board. Notice shall be given of any public hearing of the board as prescribed in section
 16 2 (3)(a) of this 2007 Act. The board may by majority vote:

17 (a) Subject to section 3 of this 2007 Act, propose modification of taxes imposed by the
 18 funding district;

19 (b) Subject to section 3 of this 2007 Act, propose addition of new taxes or elimination of
 20 taxes currently imposed by the funding district;

21 (c) Propose adding additional contiguous qualified school districts to the funding district;
 22 or

23 (d) Propose dissolution of the funding district.

24 (3) Any action proposed by the governing board under subsection (2) of this section may
 25 not take effect unless approved by the electors of the education funding district.

26 **SECTION 5.** An education funding district is not a district for purposes of ORS chapter
 27 198.

28 **SECTION 6.** ORS 327.013, as amended by section 2, chapter 4, Oregon Laws 2006, is amended
 29 to read:

30 327.013. The State School Fund distributions for school districts shall be computed as follows:

31 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.

32 (2) The funding percentage shall be calculated by the Superintendent of Public Instruction to
 33 distribute as nearly as practicable the total sum available for distribution of money.

34 (3) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor.

35 (4) Statewide Target per ADMw Grant = \$4,500.

36 (5) Teacher Experience Factor = \$25 × {District average teacher experience – statewide av-
 37 erage teacher experience}. “Average teacher experience” means the average, in years, of teaching
 38 experience of certified teachers as reported to the Department of Education.

39 (6) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater.

40 (7)(a) Weighted average daily membership or ADMw = average daily membership + an addi-
 41 tional amount computed as follows:

42 (A) 1.0 for each student in average daily membership eligible for special education as a child
 43 with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district’s ADM
 44 without review and approval of the Department of Education. Children with disabilities eligible for
 45 special education in adult local correctional facilities as defined in ORS 169.005 or adult regional

1 correctional facilities as defined in ORS 169.620 may not be included in the calculation of the 11
2 percent.

3 (B) 0.5 for each student in average daily membership eligible for and enrolled in an English as
4 a second language program under ORS 336.079.

5 (C) 0.2 for each student in average daily membership enrolled in a union high school district or
6 in an area of a unified school district where the district is only responsible for educating students
7 in grades 9 through 12 in that area.

8 (D) -0.1 for each student in average daily membership enrolled in an elementary district oper-
9 ating kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified
10 school district where the district is only responsible for educating students in kindergarten through
11 grade 8.

12 (E) 0.25 times the sum of the following:

13 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined
14 by the Department of Education from a report of the federal Department of Education based on the
15 most recent federal decennial census, as adjusted by the school district's proportion of students in
16 the county receiving free or reduced price lunches under the United States Department of Agricul-
17 ture's current Income Eligibility Guidelines if the number is higher than the number determined
18 from census data and only if the school district had an average daily membership of 2,500 or less
19 for the 1995-1996 school year, and as further adjusted by the number of students in average daily
20 membership in June of the year of distribution divided by number of students in average daily
21 membership in the district, or its predecessors, in June of the year of the most recent federal
22 decennial census;

23 (ii) The number of children in foster homes in the district as determined by the report of the
24 Department of Human Services to the federal Department of Education, "Annual Statistical Report
25 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the
26 Poverty Income Level," or its successor, for October 31 of the year prior to the year of distribution;
27 and

28 (iii) The number of children in the district in state-recognized facilities for neglected and delin-
29 quent children, based on information from the Department of Human Services for October 31 of the
30 year prior to the year of distribution.

31 (F) An additional amount as determined by ORS 327.077 shall be added to the ADMw for each
32 remote small elementary school and for each small high school in the district.

33 (G) All numbers of children used for the computation in this section must reflect any district
34 consolidations that have occurred since the numbers were compiled.

35 (b) The total additional weight that shall be assigned to any student in average daily member-
36 ship in a district, exclusive of students described in paragraph (a)(E) and (F) of this subsection shall
37 not exceed 2.0.

38 (8) High cost disabilities grant = the total amount received by a school district under ORS
39 327.348, for providing special education and related services to resident pupils with disabilities.

40 (9)(a) Transportation grant equals:

41 (A) 70 percent of approved transportation costs for those school districts ranked below the 80th
42 percentile under paragraph (b) of this subsection.

43 (B) 80 percent of approved transportation costs for those school districts ranked in or above the
44 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

45 (C) 90 percent of approved transportation costs for those school districts ranked in or above the

1 90th percentile under paragraph (b) of this subsection.

2 (b) Each fiscal year, the Department of Education shall rank school districts based on the ap-
 3 proved transportation costs per ADM of each school district, ranking the school district with the
 4 highest approved transportation costs per ADM at the top of the order.

5 (10) Local Revenues are the total of the following:

6 (a) The amount of revenue offset against local property taxes as determined by the Department
 7 of Revenue under ORS 311.175 (3)(a)(A);

8 (b) The amount of property taxes actually received by the district including penalties and in-
 9 terest on taxes;

10 (c) The amount of revenue received by the district from the Common School Fund under ORS
 11 327.403 to 327.410;

12 (d) The amount of revenue received by the district from the county school fund;

13 (e) The amount of revenue received by the district from the 25 percent of federal forest reserve
 14 revenues required to be distributed to schools by ORS 294.060 (1);

15 (f) The amount of revenue received by the district from state managed forestlands under ORS
 16 530.115 (1)(b) and (c);

17 (g) Moneys received in lieu of property taxes;

18 (h) Federal funds received without specific application by the school district and which are not
 19 deemed under federal law to be nonsupplantable;

20 (i) Any positive amount obtained by subtracting the operating property taxes actually imposed
 21 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would
 22 have been imposed by the district if the district had certified the maximum rate of operating prop-
 23 erty taxes allowed by law; and

24 (j) Any amount distributed to the district in the prior fiscal year under section 4 (3), chapter
 25 695, Oregon Laws 2001, or ORS 327.019 (8).

26 (11) Notwithstanding subsection (10) of this section, Local Revenues do not include:

27 (a) If a school district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount
 28 equal to the lesser of:

29 (A) The amount of revenue actually received by the district from local option taxes imposed
 30 pursuant to ORS 280.040 to 280.145;

31 (B) Fifteen percent of the combined total for the school district of the general purpose grant,
 32 the transportation grant, the facility grant and the high cost disabilities grant of the district; or

33 (C) \$750 per district extended ADMw; and

34 (b) For a school district with a statutory rate limit on July 1, 2003, that is greater than \$4.50
 35 per \$1,000 of assessed value, the amount of property taxes actually received by the district, includ-
 36 ing penalties and interest on taxes, that results from an increase in the rate of ad valorem property
 37 tax of the district allowed under section 11 (5)(d), Article XI of the Oregon Constitution.

38 (c) **Revenues distributed from an education funding district established under sections 1**
 39 **to 5 of this 2007 Act.**

40 (12)(a) Facility Grant = 8 percent of total construction costs of new school buildings.

41 (b) A school district shall receive a Facility Grant in the distribution year that a new school
 42 building is first used.

43 (c) As used in this subsection:

44 (A) "New school building" includes new school buildings, adding structures onto existing school
 45 buildings and adding premanufactured structures to a school district if those buildings or structures

1 are to be used for instructing students.

2 (B) "Construction costs" does not include costs for land acquisition.

3 (13) Notwithstanding subsection (10)(i) of this section, Local Revenues do not include any
4 amount of operating property tax authority of the district that is:

5 (a) Attributable to the suspension of ORS 310.239 by section 1, chapter 4, Oregon Laws 2006;
6 and

7 (b) Not actually imposed by the district.

8 **SECTION 7.** ORS 327.013, as amended by sections 2 and 4, chapter 4, Oregon Laws 2006, is
9 amended to read:

10 327.013. The State School Fund distributions for school districts shall be computed as follows:

11 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.

12 (2) The funding percentage shall be calculated by the Superintendent of Public Instruction to
13 distribute as nearly as practicable the total sum available for distribution of money.

14 (3) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor.

15 (4) Statewide Target per ADMw Grant = \$4,500.

16 (5) Teacher Experience Factor = \$25 × {District average teacher experience – statewide av-
17 erage teacher experience}. "Average teacher experience" means the average, in years, of teaching
18 experience of certified teachers as reported to the Department of Education.

19 (6) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater.

20 (7)(a) Weighted average daily membership or ADMw = average daily membership + an addi-
21 tional amount computed as follows:

22 (A) 1.0 for each student in average daily membership eligible for special education as a child
23 with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district's ADM
24 without review and approval of the Department of Education. Children with disabilities eligible for
25 special education in adult local correctional facilities as defined in ORS 169.005 or adult regional
26 correctional facilities as defined in ORS 169.620 may not be included in the calculation of the 11
27 percent.

28 (B) 0.5 for each student in average daily membership eligible for and enrolled in an English as
29 a second language program under ORS 336.079.

30 (C) 0.2 for each student in average daily membership enrolled in a union high school district or
31 in an area of a unified school district where the district is only responsible for educating students
32 in grades 9 through 12 in that area.

33 (D) -0.1 for each student in average daily membership enrolled in an elementary district oper-
34 ating kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified
35 school district where the district is only responsible for educating students in kindergarten through
36 grade 8.

37 (E) 0.25 times the sum of the following:

38 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined
39 by the Department of Education from a report of the federal Department of Education based on the
40 most recent federal decennial census, as adjusted by the school district's proportion of students in
41 the county receiving free or reduced price lunches under the United States Department of Agricul-
42 ture's current Income Eligibility Guidelines if the number is higher than the number determined
43 from census data and only if the school district had an average daily membership of 2,500 or less
44 for the 1995-1996 school year, and as further adjusted by the number of students in average daily
45 membership in June of the year of distribution divided by number of students in average daily

1 membership in the district, or its predecessors, in June of the year of the most recent federal
2 decennial census;

3 (ii) The number of children in foster homes in the district as determined by the report of the
4 Department of Human Services to the federal Department of Education, "Annual Statistical Report
5 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the
6 Poverty Income Level," or its successor, for October 31 of the year prior to the year of distribution;
7 and

8 (iii) The number of children in the district in state-recognized facilities for neglected and delin-
9 quent children, based on information from the Department of Human Services for October 31 of the
10 year prior to the year of distribution.

11 (F) An additional amount as determined by ORS 327.077 shall be added to the ADMw for each
12 remote small elementary school and for each small high school in the district.

13 (G) All numbers of children used for the computation in this section must reflect any district
14 consolidations that have occurred since the numbers were compiled.

15 (b) The total additional weight that shall be assigned to any student in average daily member-
16 ship in a district, exclusive of students described in paragraph (a)(E) and (F) of this subsection shall
17 not exceed 2.0.

18 (8) High cost disabilities grant = the total amount received by a school district under ORS
19 327.348, for providing special education and related services to resident pupils with disabilities.

20 (9)(a) Transportation grant equals:

21 (A) 70 percent of approved transportation costs for those school districts ranked below the 80th
22 percentile under paragraph (b) of this subsection.

23 (B) 80 percent of approved transportation costs for those school districts ranked in or above the
24 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

25 (C) 90 percent of approved transportation costs for those school districts ranked in or above the
26 90th percentile under paragraph (b) of this subsection.

27 (b) Each fiscal year, the Department of Education shall rank school districts based on the ap-
28 proved transportation costs per ADM of each school district, ranking the school district with the
29 highest approved transportation costs per ADM at the top of the order.

30 (10) Local Revenues are the total of the following:

31 (a) The amount of revenue offset against local property taxes as determined by the Department
32 of Revenue under ORS 311.175 (3)(a)(A);

33 (b) The amount of property taxes actually received by the district including penalties and in-
34 terest on taxes;

35 (c) The amount of revenue received by the district from the Common School Fund under ORS
36 327.403 to 327.410;

37 (d) The amount of revenue received by the district from the county school fund;

38 (e) The amount of revenue received by the district from the 25 percent of federal forest reserve
39 revenues required to be distributed to schools by ORS 294.060 (1);

40 (f) The amount of revenue received by the district from state managed forestlands under ORS
41 530.115 (1)(b) and (c);

42 (g) Moneys received in lieu of property taxes;

43 (h) Federal funds received without specific application by the school district and which are not
44 deemed under federal law to be nonsupplantable;

45 (i) Any positive amount obtained by subtracting the operating property taxes actually imposed

1 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would
2 have been imposed by the district if the district had certified the maximum rate of operating prop-
3 erty taxes allowed by law; and

4 (j) Any amount distributed to the district in the prior fiscal year under section 4 (3), chapter
5 695, Oregon Laws 2001, or ORS 327.019 (8).

6 (11) Notwithstanding subsection (10) of this section, Local Revenues do not include, if a school
7 district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount equal to the lesser
8 of:

9 (a) The amount of revenue actually received by the district from local option taxes imposed
10 pursuant to ORS 280.040 to 280.145;

11 (b) Fifteen percent of the combined total for the school district of the general purpose grant, the
12 transportation grant, the facility grant and the high cost disabilities grant of the district; or

13 (c) \$750 per district extended ADMw.

14 **(12) Notwithstanding subsection (10) of this section, Local Revenues do not include re-**
15 **venues distributed from an education funding district established under sections 1 to 5 of this**
16 **2007 Act.**

17 [(12)(a)] **(13)(a)** Facility Grant = 8 percent of total construction costs of new school buildings.

18 (b) A school district shall receive a Facility Grant in the distribution year that a new school
19 building is first used.

20 (c) As used in this subsection:

21 (A) "New school building" includes new school buildings, adding structures onto existing school
22 buildings and adding premanufactured structures to a school district if those buildings or structures
23 are to be used for instructing students.

24 (B) "Construction costs" does not include costs for land acquisition.

25 **SECTION 8. This 2007 Act takes effect on the 91st day after the date on which the reg-**
26 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

27