

**A-Engrossed**  
**Senate Bill 621**

Ordered by the Senate April 30  
Including Senate Amendments dated April 30

Sponsored by Senator AVAKIAN; Senator WALKER, Representatives BUCKLEY, KOMP

**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.

*[Specifies that 80 percent of students enrolled in public charter school be residents of school district within which school is located.]*

*[Specifies percentage of students within school district that may be enrolled in public charter schools. Allows school district to waive limitation.]*

*[Specifies that sponsor is employer of public charter school employees for purposes of collective bargaining. Requires public charter schools to employ only teachers and administrators who are licensed by Teacher Standards and Practices Commission. Exempts existing public charter schools from requirements.]*

**Increases percentage of teaching and administrative staff at public charter school that must be licensed by Teacher Standards and Practices Commission.**

**Establishes additional registration standards for public charter school teachers and applies Teacher Standards and Practices Commission powers regarding discipline or suspension to registered public charter school teachers.**

Declares emergency, effective July 1, 2007.

**A BILL FOR AN ACT**

1  
2 Relating to public charter schools; creating new provisions; amending ORS 338.135, 342.125, 342.143,  
3 342.175, 342.176 and 342.177; and declaring an emergency.

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

5 **SECTION 1.** ORS 338.135 is amended to read:

6 338.135. (1) Employee assignment to a public charter school shall be voluntary.

7 (2) A public charter school or the sponsor of the public charter school may be considered the  
8 employer of any employees of the public charter school. If a school district board is not the sponsor  
9 of the public charter school, the school district board shall not be the employer of the employees  
10 of the public charter school and the school district board may not collectively bargain with the  
11 employees of the public charter school. The public charter school governing body shall control the  
12 selection of employees at the public charter school.

13 (3) The school district board of the school district within which the public charter school is lo-  
14 cated shall grant a leave of absence to any employee who chooses to work in the public charter  
15 school. The length and terms of the leave of absence shall be set by negotiated agreement or by  
16 board policy. However, the length of the leave of absence may not be less than two years unless:

17 (a) The charter of the public charter school is terminated or the public charter school is dis-  
18 solved or closed during the leave of absence; or

19 (b) The employee and the school district board have mutually agreed to a different length of  
20 time.

21 (4) An employee of a public charter school operating within a school district who is granted a

**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 leave of absence from the school district and returns to employment with the school district shall  
2 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.  
3 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of  
4 a public charter school not operating within the school district may make provisions for the return  
5 of the employee to employment with the school district.

6 (5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a  
7 public employer and as such shall participate in the Public Employees Retirement System.

8 (6) For teacher licensing, employment experience in public charter schools shall be considered  
9 equivalent to experience in public schools.

10 (7)(a) Notwithstanding ORS 342.173, a public charter school may employ as an administrator a  
11 person who is not licensed by the Teacher Standards and Practices Commission.

12 (b) Any person employed as a teacher in a public charter school shall be licensed or registered  
13 to teach by the Teacher Standards and Practices Commission.

14 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least [*one-half*] **65 percent** of the  
15 total full-time equivalent (FTE) teaching and administrative staff at the public charter school shall  
16 be licensed by the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

17 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district  
18 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member  
19 of a labor organization or organize with other employees to bargain collectively. Bargaining units  
20 at the public charter school may be separate from other bargaining units of the sponsor or of the  
21 school district in which the public charter school is located. Employees of a public charter school  
22 may be part of the bargaining units of the sponsor or of the school district in which the public  
23 charter school is located.

24 (9) A school district or the State Board of Education may not waive the right to sponsor a public  
25 charter school in a collective bargaining agreement.

26 **SECTION 2. The amendments to ORS 338.135 by section 1 of this 2007 Act apply to:**

27 **(1) Public charter schools that renew the charter of the school on or after the effective**  
28 **date of this 2007 Act; and**

29 **(2) Public charter schools for which a charter is executed on or after the effective date**  
30 **of this 2007 Act.**

31 **SECTION 3. ORS 342.125 is amended to read:**

32 342.125. (1) Teaching licenses shall be issued and renewed by the Teacher Standards and Prac-  
33 tices Commission by the authority of the State of Oregon, subject to ORS 342.120 to 342.430 and the  
34 rules of the commission.

35 (2) Subject to subsection (4) of this section, teaching licenses shall be of the following types:

36 (a) Basic teaching license.

37 (b) Standard teaching license.

38 (c) Administrative license.

39 (d) Restricted teaching license.

40 (3) Subject to ORS 342.130 and to subsection (4) of this section and in addition to the teaching  
41 licenses described in subsection (2) of this section, licenses shall be of the following types:

42 (a) Initial teaching license.

43 (b) Continuing teaching license.

44 (c) Initial personnel service license.

45 (d) Continuing personnel service license.

1 (e) Initial administrative license.

2 (f) Continuing administrative license.

3 (4) The Teacher Standards and Practices Commission may establish other types of teaching li-  
4 censes as it considers necessary for operation of the public schools of the state and may prescribe  
5 the qualifications for the licenses. However, no license established under the authority of this sub-  
6 section is required for a regular classroom teaching position in the public schools.

7 (5)(a) The Teacher Standards and Practices Commission shall establish a public charter school  
8 teacher registry. The commission shall require the applicant and the public charter school to jointly  
9 submit an application requesting registration as a public charter school teacher. The application  
10 shall include:

11 (A) A description of the specific teaching position the applicant will fill;

12 (B) A description of the background of the applicant that is relevant to the teaching position,  
13 including any post-secondary education or other experience; and

14 (C) Documentation as required by the commission for the purposes of conducting a criminal re-  
15 cords check as provided in ORS 181.534 and a background check through an interstate clearing-  
16 house of revoked and suspended licenses.

17 (b) Subject to the results of the criminal records check, [and] background check **and informa-**  
18 **tion received under ORS 342.143 (2)**, the commission shall approve the application for registration.  
19 The commission may deny a request for registration only on the basis of the criminal records  
20 check, [or] the background check through an interstate clearinghouse of revoked and suspended li-  
21 censes **or information received under ORS 342.143 (2)**. The registration is valid for three years  
22 and may be renewed upon joint application from the teacher and the public charter school.

23 (c) A registration as a public charter school teacher qualifies its holder to accept the teaching  
24 position described in the application in the public charter school that submitted the application with  
25 the holder of the registration.

26 (6) The Teacher Standards and Practices Commission shall adopt an expedited process for the  
27 issuance of any license established pursuant to this section. The process may require a school dis-  
28 trict superintendent or school district board and the applicant to jointly submit an application re-  
29 questing an emergency license. Within two working days after receiving a completed application the  
30 commission shall issue the emergency license. However, the commission may limit the number of  
31 applications for expedited service from a school district or education service district to not more  
32 than 100 applications in a period of two working days. For purposes of this subsection, the com-  
33 mission may not distinguish between a school district or education service district involved in a  
34 labor dispute and any other school district or education service district.

35 **SECTION 4. The amendments to ORS 342.125 by section 3 of this 2007 Act apply to ap-**  
36 **licants who apply for registration or renewal of a registration as a public charter school**  
37 **teacher on or after the effective date of this 2007 Act.**

38 **SECTION 5.** ORS 342.143 is amended to read:

39 342.143. (1) No teaching, personnel service or administrative license shall be issued to any per-  
40 son until the person has attained the age of 18 years and has furnished satisfactory evidence of  
41 proper educational training.

42 (2) The Teacher Standards and Practices Commission may [also] require an applicant for a  
43 teaching, personnel service or administrative license **or registration as a public charter school**  
44 **teacher** to furnish evidence satisfactory to the commission of good moral character, mental and  
45 physical health, and such other evidence as it may deem necessary to establish the applicant's fit-

1 ness to serve as a teacher.

2 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-  
3 section (2) of this section and notwithstanding ORS 670.280:

4 (a) No teaching, personnel service or administrative license or registration as a public charter  
5 school teacher shall be issued to any person who:

6 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,  
7 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.445,  
8 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680 (1993  
9 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012,  
10 167.017, 167.062, 167.065, 167.070, 167.075, 167.080, 167.087, 167.090, 475.848, 475.852, 475.858, 475.860,  
11 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or  
12 475.906;

13 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in  
14 subparagraph (A) of this paragraph; or

15 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as  
16 defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

17 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-  
18 tion to any person who has been convicted of a crime involving the illegal use, sale or possession  
19 of controlled substances.

20 (4) In denying the issuance of a license or registration under this section, the commission shall  
21 follow the procedure set forth in ORS 342.176 and 342.177.

22 (5) The Department of Education shall provide school districts and public charter schools a copy  
23 of the list contained in subsection (3) of this section.

24 **SECTION 6.** ORS 342.175 is amended to read:

25 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license  
26 **or registration** of a teacher or administrator, discipline a teacher or administrator or suspend or  
27 revoke the right of any person to apply for a license **or registration** if the person has held a license  
28 **or registration** at any time within five years prior to issuance of the notice of charges under ORS  
29 342.176 based on the following:

30 (a) Conviction of a crime not listed in ORS 342.143 (3);

31 (b) Gross neglect of duty;

32 (c) Any gross unfitness;

33 (d) Conviction of a crime for violating any law of this or any state or of the United States in-  
34 volving the illegal use, sale or possession of controlled substances;

35 (e) Any false statement knowingly made in an application for issuance, renewal or reinstatement  
36 of a license **or registration**; or

37 (f) Failure to comply with any condition of reinstatement under subsection (3) of this section or  
38 any condition of probation under ORS 342.177 (3)(b).

39 (2) Notwithstanding ORS 670.280, the commission shall revoke any license or registration and  
40 shall revoke the right of any person to apply for a license or registration if the person has held a  
41 license or registration at any time within five years prior to issuance of the notice of charges under  
42 ORS 342.176 when the holder or person has been convicted of any crime described in ORS 342.143  
43 (3).

44 (3) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (4) of  
45 this section, any person whose license or registration has been suspended or revoked or whose

1 privilege to apply for a license or registration has been revoked may apply to the commission for  
2 reinstatement of the license or registration after one year from the date of the suspension or revo-  
3 cation. The commission may require an applicant for reinstatement to furnish evidence satisfactory  
4 to the commission of good moral character, mental and physical health and such other evidence as  
5 the commission may consider necessary to establish the applicant's fitness. The commission may  
6 impose a probationary period and such conditions as it considers necessary upon approving an ap-  
7 plication for reinstatement.

8 (4) The commission shall reconsider immediately a license or registration suspension or revoca-  
9 tion or the situation of a person whose privilege to apply for a license or registration has been re-  
10 voked, upon application therefor, when the license or registration suspension or revocation or the  
11 privilege revocation is based on a criminal conviction that is reversed on appeal.

12 (5) Violation of rules adopted by the commission relating to competent and ethical performance  
13 of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

14 (6) A copy of the record of conviction, certified to by the clerk of the court entering the con-  
15 viction, shall be conclusive evidence of a conviction described in this section.

16 **SECTION 7.** ORS 342.176 is amended to read:

17 342.176. (1) Upon receipt of a complaint or information that a person has violated ORS 342.143  
18 or 342.175, the Teacher Standards and Practices Commission shall promptly undertake an investi-  
19 gation.

20 (2) The commission may appoint an investigator and shall furnish the investigator with appro-  
21 priate professional and other special assistance reasonably required to conduct the investigation,  
22 and the investigator is empowered to subpoena witnesses over the signature of the executive direc-  
23 tor, swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2).

24 (3) Following completion of the investigation, (3) the executive director shall report in writing any  
25 findings and recommendations to:

26 (a) The commission, meeting in executive session, at its next regular meeting following com-  
27 pletion of the investigation; and

28 (b) The person against whom the charge is made.

29 (4) The documents and materials used in the investigation and the report of the executive di-  
30 rector are confidential and not subject to public inspection unless the commission makes a final  
31 determination that the person charged has violated ORS 342.143 or 342.175.

32 (5) If the commission finds from the report that there is sufficient cause to justify holding a  
33 hearing under ORS 342.177, it shall notify in writing:

34 (a) The person charged, enclosing a statement of the charges and a notice of opportunity for  
35 hearing;

36 (b) The complainant; and

37 (c) The employing district **or public charter school**, if any.

38 (6) If the commission finds from the report that there is not sufficient cause to justify holding  
39 a hearing under ORS 342.177, it shall notify in writing:

40 (a) The person charged;

41 (b) The complainant; and

42 (c) The employing district **or public charter school**, if any.

43 (7) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section  
44 in executive session. However, the provisions of ORS 192.660 (4) apply to the sessions.

45 **SECTION 8.** ORS 342.177 is amended to read:

1 342.177. (1)(a) Hearings under ORS 342.176 shall be conducted by an administrative law judge  
2 assigned from the Office of Administrative Hearings established under ORS 183.605.

3 (b) Notwithstanding paragraph (a) of this subsection, the Teacher Standards and Practices  
4 Commission shall conduct any hearing that results from the suspension of the teaching license of a  
5 teacher under ORS 342.553.

6 (c) Any hearing conducted under this subsection shall be private unless the person against  
7 whom the charge is made requests a public hearing. Students attending school in the district  
8 [which] **that** employs the person [shall not be permitted to] **may not** attend any hearing except as  
9 witnesses duly subpoenaed to testify with respect to the charges made. **Students attending a public**  
10 **charter school that employs the person may not attend any hearing except as witnesses duly**  
11 **subpoenaed to testify with respect to the charges made.** The person against whom the charge  
12 is made shall have the right to be represented by counsel and to present evidence and argument.  
13 The evidence must be confined to the charges.

14 (2) The Teacher Standards and Practices Commission or the person charged may have subpoenas  
15 issued to compel attendance at the hearing. The person charged may have subpoenas issued by an  
16 attorney of record subscribed by the signature of the attorney or by the executive director. Wit-  
17 nesses appearing pursuant to subpoena, other than the parties or officers or employees of the com-  
18 mission, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). The  
19 commission or the person charged shall have the right to compel the attendance and obedience of  
20 witnesses in the same manner as provided under ORS 183.440 (2).

21 (3) The commission shall render its decision at its next regular meeting following the hearing.  
22 If the decision of the commission is that the charge described in ORS 342.175 (1) has been proven,  
23 the commission may take any or all of the following disciplinary action against the person charged:

24 (a) Issue a public reprimand.

25 (b) Place the person on probation for a period not to exceed four years and subject to such  
26 conditions as the commission considers necessary.

27 (c) Suspend the license **or registration** of the teacher or administrator for a period not to ex-  
28 ceed one year.

29 (d) Revoke the license **or registration** of the teacher or administrator.

30 (e) Revoke the privilege to apply for a license **or registration**.

31 (4) If the decision of the commission is that the charge is not proven, the commission shall order  
32 the charges dismissed.

33 (5) The commission shall notify in writing the person charged, the school district **or public**  
34 **charter school** by which the person is employed and the Superintendent of Public Instruction of the  
35 decision.

36 **SECTION 9. This 2007 Act being necessary for the immediate preservation of the public**  
37 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
38 **July 1, 2007.**