

Senate Bill 621

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 **as introduced**.

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.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to public charter schools; creating new provisions; amending ORS 338.025, 338.115, 338.125,
3 338.135, 342.125 and 342.173; and declaring an emergency.

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

5 **SECTION 1.** ORS 338.025 is amended to read:

6 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
7 of this chapter. The rules shall follow the intent of this chapter.

8 (2) Upon application by a public charter school, the State Board of Education may grant a
9 waiver of any provision of this chapter if the waiver promotes the development of programs by
10 providers, enhances the equitable access by underserved families to the public education of their
11 choice, extends the equitable access to public support by all students or permits high quality pro-
12 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
13 chapter or any provision under ORS 338.115 (1)(a) to [(p)] (q).

14 **SECTION 2.** ORS 338.115 is amended to read:

15 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
16 public schools do not apply to public charter schools. However, the following laws do apply to public
17 charter schools:

18 (a) Federal law;

19 (b) ORS 192.410 to 192.505 (public records law);

20 (c) ORS 192.610 to 192.690 (public meetings law);

21 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

22 (e) ORS 181.534, 181.539, 326.603, 326.607 and 342.232 (criminal records checks);

23 (f) ORS 337.150 (textbooks);

24 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

25 (h) ORS 659.850 and 659.855 (discrimination);

26 (i) ORS 30.260 to 30.300 (tort claims);

27 (j) Health and safety statutes and rules;

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 (k) Any statute or rule that is listed in the charter;
- 2 (L) The statewide assessment system developed by the Department of Education for mathemat-
3 ics, science and English under ORS 329.485 (1);
- 4 (m) ORS 329.045 (academic content standards and instruction);
- 5 (n) Any statute or rule that establishes requirements for instructional time provided by a school
6 during each day or during a year;
- 7 (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- 8 (p) ORS 339.370, 339.372 and 339.375 (reporting of child abuse);
- 9 **(q) ORS 342.173 (teacher and administrator licensing);** and
- 10 [(q)] (r) This chapter.
- 11 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
12 that apply to school district boards, school districts and other public schools may apply to a public
13 charter school.
- 14 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
15 “public school” include public charter school as those terms are used in that statute or rule.
- 16 (4) A public charter school may not violate the Establishment Clause of the First Amendment
17 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
18 based.
- 19 (5) A public charter school shall maintain an active enrollment of at least 25 students.
- 20 (6) A public charter school may sue or be sued as a separate legal entity.
- 21 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
22 and employees of a sponsor acting in their official capacities are immune from civil liability with
23 respect to all activities related to a public charter school within the scope of their duties or em-
24 ployment.
- 25 (8) A public charter school may enter into contracts and may lease facilities and services from
26 a school district, education service district, state institution of higher education, other governmental
27 unit or any person or legal entity.
- 28 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
29 ability.
- 30 (10) A public charter school may receive and accept gifts, grants and donations from any source
31 for expenditure to carry out the lawful functions of the school.
- 32 (11) The school district in which the public charter school is located shall offer a high school
33 diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery to any public
34 charter school student who meets the district’s and state’s standards for a high school diploma,
35 certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery. If the school district
36 offers a Certificate of Initial Mastery subject area endorsement to students who attend school in the
37 district, then the school district shall offer the endorsement to any public charter school student
38 who meets the district’s and state’s standards for the endorsement.
- 39 (12) A high school diploma, certificate, Certificate of Initial Mastery, Certificate of Initial Mas-
40 tery subject area endorsement or Certificate of Advanced Mastery issued by a public charter school
41 grants to the holder the same rights and privileges as a high school diploma, certificate, Certificate
42 of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Ad-
43 vanced Mastery issued by a nonchartered public school.
- 44 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
45 sponsor as specified in the charter.

1 (14) A public charter school may receive services from an education service district in the same
 2 manner as a nonchartered public school in the school district in which the public charter school is
 3 located.

4 **SECTION 3.** ORS 338.125 is amended to read:

5 338.125. (1) Student enrollment in a public charter school shall be voluntary. All students who
 6 reside within the school district where the public charter school is located are eligible for enroll-
 7 ment at a public charter school. If the number of applications from students who reside within the
 8 school district exceeds the capacity of a program, class, grade level or building, the public charter
 9 school shall select students through an equitable lottery selection process. However, after a public
 10 charter school has been in operation for one or more years, the public charter school may give
 11 priority for admission to students:

12 (a) Who were enrolled in the school in the prior year; or

13 (b) Who have siblings who are presently enrolled in the school and who were enrolled in the
 14 school in the prior year.

15 (2)(a) If space is available a public charter school may admit students who do not reside in the
 16 school district in which the public charter school is located.

17 *[(b) Notwithstanding paragraph (a) of this subsection, if a public charter school offers any online*
 18 *courses as part of the curriculum of the school, then 50 percent or more of the students who attend the*
 19 *public charter school must reside in the school district in which the public charter school is located.]*

20 **(b) Notwithstanding paragraph (a) of this subsection, at least 80 percent of the students**
 21 **enrolled in a public charter school shall be residents of the school district within which the**
 22 **public charter school is located.**

23 **(3)(a) The total number of students enrolled in public charter schools located in a school**
 24 **district may not be more than 10 percent of the total number of students enrolled in all**
 25 **public schools in the school district.**

26 **(b) A school district board may waive the requirements of paragraph (a) of this sub-**
 27 **section.**

28 *[(3)]* (4) A public charter school may not limit student admission based on ethnicity, national
 29 origin, race, religion, disability, gender, income level, proficiency in the English language or athletic
 30 ability, but may limit admission to students within a given age group or grade level.

31 *[(4)]* (5) A public charter school may conduct fund-raising activities. However, a public charter
 32 school shall not require a student to participate in fund-raising activities as a condition of admission
 33 to the public charter school.

34 **SECTION 4. The amendments to ORS 338.125 by section 3 of this 2007 Act first apply to**
 35 **the 2007-2008 school year.**

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

37 338.135. (1) Employee assignment to a public charter school shall be voluntary.

38 (2) A public charter school or the sponsor of the public charter school may be considered the
 39 employer of any employees of the public charter school. If a school district board is not the sponsor
 40 of the public charter school, the school district board shall not be the employer of the employees
 41 of the public charter school and the school district board may not collectively bargain with the
 42 employees of the public charter school. The public charter school governing body shall control the
 43 selection of employees at the public charter school.

44 (3) The school district board of the school district within which the public charter school is lo-
 45 cated shall grant a leave of absence to any employee who chooses to work in the public charter

1 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
 2 board policy. However, the length of the leave of absence may not be less than two years unless:

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

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

7 (4) An employee of a public charter school operating within a school district who is granted a
 8 leave of absence from the school district and returns to employment with the school district shall
 9 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
 10 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
 11 a public charter school not operating within the school district may make provisions for the return
 12 of the employee to employment with the school district.

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

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

17 **(7) Pursuant to ORS 342.173, any person employed as an administrator or as a teacher**
 18 **in a public charter school shall be licensed by the Teacher Standards and Practices Com-**
 19 **mission.**

20 **[(7)(a)] (8)(a) This subsection shall apply only to public charter schools that had a charter**
 21 **with a sponsor on the effective date of this 2007 Act.**

22 **(b)** Notwithstanding **subsection (7) of this section** and ORS 342.173, a public charter school
 23 may employ as an administrator a person who is not licensed by the Teacher Standards and Prac-
 24 tices Commission.

25 **[(b)] (c)** Any person employed as a teacher in a public charter school shall be licensed or reg-
 26 istered to teach by the Teacher Standards and Practices Commission.

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

30 **[(8)] (9)(a)** Notwithstanding ORS 243.650, a public charter school **that had a charter with a**
 31 **sponsor on the effective date of this 2007 Act** shall be considered a school district for purposes
 32 of ORS 243.650 to 243.782. An employee of a public charter school may be a member of a labor or-
 33 ganization or organize with other employees to bargain collectively. Bargaining units at the public
 34 charter school may be separate from other bargaining units of the sponsor or of the school district
 35 in which the public charter school is located. Employees of a public charter school may be part of
 36 the bargaining units of the sponsor or of the school district in which the public charter school is
 37 located.

38 **(b) Notwithstanding subsection (2) of this section, an employee of a public charter school**
 39 **that did not have a charter with a sponsor on the effective date of this 2007 Act shall be**
 40 **considered to be an employee of the sponsor for purposes of ORS 243.650 to 243.782.**

41 **[(9)] (10)** A school district or the State Board of Education may not waive the right to sponsor
 42 a public charter school in a collective bargaining agreement.

43 **SECTION 6.** ORS 342.125 is amended to read:

44 342.125. (1) Teaching licenses shall be issued and renewed by the Teacher Standards and Prac-
 45 tices Commission by the authority of the State of Oregon, subject to ORS 342.120 to 342.430 and the

1 rules of the commission.

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

3 (a) Basic teaching license.

4 (b) Standard teaching license.

5 (c) Administrative license.

6 (d) Restricted teaching license.

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

9 (a) Initial teaching license.

10 (b) Continuing teaching license.

11 (c) Initial personnel service license.

12 (d) Continuing personnel service license.

13 (e) Initial administrative license.

14 (f) Continuing administrative license.

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

19 (5)(a) The Teacher Standards and Practices Commission shall establish a public charter school
20 teacher registry **for teachers who are employed by public charter schools that had a charter**
21 **with a sponsor on the effective date of this 2007 Act.** The commission shall require the applicant
22 and the public charter school to jointly submit an application requesting registration as a public
23 charter school teacher. The application shall include:

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

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

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

30 (b) Subject to the results of the criminal records check and background check, the commission
31 shall approve the application for registration. The commission may deny a request for registration
32 only on the basis of the criminal records check or the background check through an interstate
33 clearinghouse of revoked and suspended licenses. The registration is valid for three years and may
34 be renewed upon joint application from the teacher and the public charter school.

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

38 (6) The Teacher Standards and Practices Commission shall adopt an expedited process for the
39 issuance of any license established pursuant to this section. The process may require a school dis-
40 trict superintendent or school district board and the applicant to jointly submit an application re-
41 questing an emergency license. Within two working days after receiving a completed application the
42 commission shall issue the emergency license. However, the commission may limit the number of
43 applications for expedited service from a school district or education service district to not more
44 than 100 applications in a period of two working days. For purposes of this subsection, the com-
45 mission may not distinguish between a school district or education service district involved in a

1 labor dispute and any other school district or education service district.

2 **SECTION 7.** ORS 342.173 is amended to read:

3 342.173. (1) Any school district which employs any person not properly licensed by the Teacher
 4 Standards and Practices Commission and assigned in accordance with the terms specified by the
 5 person's license shall forfeit in State School Fund moneys due the district an amount determined by
 6 the Teacher Standards and Practices Commission to not exceed the amount of the salary paid to the
 7 person for the time during which the person is employed. The forfeiture shall be effective unless:

8 (a) Such assignments are made with justification satisfactory to the Teacher Standards and
 9 Practices Commission.

10 (b) The teacher is employed by a post-secondary institution accredited by the Northwest Asso-
 11 ciation of Schools and Colleges which has a contract with a school district under which the teacher
 12 is teaching at the high school level. The contract shall be approved annually by the State Board of
 13 Education under rules adopted by the board, including criteria for a teacher's qualifications under
 14 subparagraph (C) of this paragraph. The contract shall:

15 (A) Be for a specific instructional assignment for which the district does not have appropriately
 16 licensed personnel either on staff or available to be placed on staff after a reasonably diligent
 17 search;

18 (B) Be approved annually by the governing boards of the post-secondary institution and the
 19 school district including a written determination that appropriately licensed personnel have not be-
 20 come available since the previous contract for the assignment;

21 (C) Provide evidence that the teacher's qualifications are appropriate for the assignment;

22 (D) Allow the teacher to teach no more than two high school units of credit or the equivalent
 23 per year; and

24 (E) Not be valid during a school closure, strike or summer session.

25 (c) The person is teaching a live, interactive distance learning course originating outside the
 26 state.

27 (2) A school district shall be required under subsection (1) of this section to forfeit not more
 28 than \$1,000 of State School Fund moneys due the district if the license has lapsed during the time
 29 of employment with the district and the holder had at the time the license expired all the quali-
 30 fications necessary to renew the license.

31 (3) Notwithstanding subsections (1) and (2) of this section, a school district employing unlicensed
 32 staff members in positions requiring licensed personnel during the time of a labor dispute shall for-
 33 feit in State School Fund moneys an amount equal to the daily salary rate multiplied by the number
 34 of teaching days for each unlicensed teaching employee during the entire labor dispute.

35 (4) If the State Board of Education finds a contract to be in violation of the provisions of sub-
 36 section (1)(b) of this section, the board shall report the violation to the Teacher Standards and
 37 Practices Commission which shall proceed as provided in subsection (1) of this section.

38 (5) Any education service district, **or a public charter school, as defined in ORS 338.005, that**
 39 **did not have a charter with a sponsor on the effective date of this 2007 Act,** that employs any
 40 person not properly licensed by the Teacher Standards and Practices Commission and assigned in
 41 accordance with the terms specified in the person's license shall pay from its funds an amount de-
 42 termined by the Teacher Standards and Practices Commission not to exceed the amount of salary
 43 paid to the person for the time during which the person was employed. The payment shall be re-
 44 quired unless the assignment is made with justification satisfactory to the commission. All amounts
 45 received under this subsection shall be credited to the State School Fund.

1 (6) An education service district **or public charter school** shall be required under subsection
 2 (5) of this section to pay a penalty of not more than \$1,000 if the license has lapsed during the time
 3 of employment with the district and the holder had at the time the license expired all the quali-
 4 fications necessary to renew the license.

5 (7) Subject to any applicable collective bargaining agreement, an education service district **or**
 6 **public charter school** required to pay any penalty under subsection (6) of this section is entitled
 7 to recover one-half of the amounts paid from the licensed personnel whose unlicensed status caused
 8 the payment. Recovery shall not exceed one-half of the amount paid that is attributable to the li-
 9 censed person.

10 (8) The Teacher Standards and Practices Commission shall notify districts **and public charter**
 11 **schools** of the licensing expiration dates of their employees who are reported to the commission.
 12 The reporting shall be done in a manner specified by the commission.

13 (9) Subject to any applicable collective bargaining agreement, a district required to forfeit any
 14 State School Fund moneys under subsection (2) of this section is entitled to recover one-half of the
 15 amounts forfeited from the licensed personnel whose unlicensed status caused the forfeiture. Re-
 16 covery shall not exceed one-half of the amount forfeited that is attributable to the particular li-
 17 censed person.

18 (10) A school district, [*or*] education service district **or public charter school** that assigns a
 19 teacher to be present in the classroom during a live, interactive distance learning presentation shall
 20 not be subject to the forfeiture described in subsection (1) of this section solely because the as-
 21 signment does not conform to the terms specified on the license of the teacher.

22 **SECTION 8. This 2007 Act being necessary for the immediate preservation of the public**
 23 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
 24 **July 1, 2007.**

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