

House Bill 2517

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**.

Establishes Oregon State Charter School Board. Transfers duties related to sponsorship of public charter schools from State Board of Education to Oregon State Charter School Board.

Establishes Charter School Distribution Fund and Oregon State Charter School Board Fund.

Allows schools located in certain school districts to apply to board for sponsorship without first applying to school district within which school will be located. Requires schools proposing to offer online instruction to apply to board for sponsorship.

Allows board to sponsor public charter school that is not approved by school district board. Applies to school years beginning on or after 2010-2011 school year.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to charter school board; creating new provisions; amending ORS 327.297, 338.005, 338.025,
3 338.035, 338.055, 338.065, 338.075, 338.095, 338.105, 338.125, 338.135, 338.155, 338.175 and 338.185;
4 appropriating money; and declaring an emergency.

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

6 **SECTION 1. Sections 2 to 5 of this 2009 Act are added to and made a part of ORS chapter**
7 **338.**

8 **SECTION 2. (1) The Oregon State Charter School Board is established.**

9 **(2)(a) The board consists of nine members who are appointed as follows:**

10 **(A) Two persons who represent the Department of Education and who are appointed by**
11 **the State Board of Education from a list of candidates recommended by the Superintendent**
12 **of Public Instruction.**

13 **(B) One person who is a member of the public and who is appointed by the President of**
14 **the Senate, in consultation with leadership from the minority party and the majority party.**

15 **(C) One person who is a member of the public and who is appointed by the Speaker of**
16 **the House of Representatives, in consultation with leadership from the minority party and**
17 **the majority party.**

18 **(D) One person who represents the State Board of Education and who is appointed by the**
19 **chairperson of the board.**

20 **(E) One business leader who is appointed by the Governor from a list of candidates re-**
21 **commended by at least two statewide organizations that represent businesses or industries**
22 **in this state.**

23 **(F) One public charter school leader who is appointed by the Governor from a list of**
24 **candidates recommended by directors of charter schools in this state.**

25 **(G) One public school district leader who is appointed by the Governor from a list of**
26 **candidates recommended by an organization that represents school district boards in this**
27 **state.**

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 (H) One person who is the parent of a child enrolled in a public charter school and who
 2 is appointed by the Governor from a list of candidates recommended by directors of charter
 3 schools in this state.

4 (b) The members appointed as described in paragraph (a) of this subsection must have
 5 expertise in one or more of the following areas:

6 (A) Researching and evaluating student learning, quality teaching and accountability in
 7 successful schools.

8 (B) Conducting an operationally sound enterprise, including effective administration and
 9 financial management practices.

10 (C) Successfully addressing the needs and interests of students, parents and communities
 11 in Oregon.

12 (3) From among its members, the Oregon State Charter School Board shall elect a
 13 chairperson and any other officers determined necessary by the board. The chairperson and
 14 officers serve for one year and have the duties identified by the board.

15 (4) The term of office of each member is four years, but a member serves at the pleasure
 16 of the appointing authority. Before the expiration of the term of a member, the appointing
 17 authority shall appoint a successor whose term begins on July 1, next following. A member
 18 is eligible for reappointment. If there is a vacancy for any cause, the appointing authority
 19 shall make an appointment to become immediately effective for the unexpired term.

20 (5) A majority of members of the board constitutes a quorum for the transaction of
 21 business.

22 (6) The board shall meet at times and places specified by the call of the chairperson or
 23 of a majority of the members of the board.

24 (7) A member of the board is not entitled to compensation, but may be reimbursed for
 25 expenses as provided in ORS 292.495.

26 (8) In accordance with applicable provisions of ORS chapter 183, the board may adopt
 27 rules necessary to carry out the implementation of ORS chapter 338.

28 **SECTION 3.** (1) Notwithstanding ORS 338.045, an applicant seeking to establish a public
 29 charter school is not required to submit a proposal to a school district board if the school
 30 will:

31 (a) Be located in a school district that has denied more than 50 percent of the public
 32 charter school applications that were submitted to the school district during the previous
 33 three years, in which case the applicant may submit a proposal described in ORS 338.045 to
 34 the Oregon State Charter School Board to request that the Oregon State Charter School
 35 Board be the sponsor of the school; or

36 (b) Deliver online at least one-third of a sequential program of instruction to a body of
 37 students that represents more than one school district, in which case the applicant must
 38 submit a proposal described in ORS 338.045 to the Oregon State Charter School Board to
 39 request that the Oregon State Charter School Board be the sponsor of the school.

40 (2) In addition to other criteria included in a proposal submitted under ORS 338.045, an
 41 applicant that submits a proposal for online instruction to the Oregon State Charter School
 42 Board under subsection (1)(b) of this section must provide:

43 (a) A plan for academic achievement that addresses how the school will improve student
 44 learning and meet academic content standards required by ORS 329.045.

45 (b) Performance criteria the school will use to measure the progress of the school in

1 meeting the academic performance goals set by the school for its first five years of opera-
 2 tion.

3 (c) A plan for implementing the proposed education program of the school by directly and
 4 significantly involving parents and guardians of students enrolled in the school and involving
 5 the professional employees of the school.

6 (d) An agreement to provide to the Oregon State Charter School Board and to the par-
 7 ents and guardians of students enrolled in the school an annual report that describes the
 8 progress of the school in meeting the academic performance goals set by the school for the
 9 preceding school year.

10 (e) A proposed budget, business plan and governance plan for the operation of the school.

11 (f) An agreement that the school will operate using an interactive Internet-based tech-
 12 nology platform that monitors and tracks student progress and attendance in conjunction
 13 with performing other student assessment functions.

14 (g) Notwithstanding ORS 338.135 (7), an agreement to employ only licensed teachers who
 15 are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110,
 16 115 Stat. 1425).

17 (h) A plan for maintaining student records and school records, including financial re-
 18 cords, at a designated central office of operations.

19 (i) A plan to provide equitable access to the education program of the school by ensuring
 20 that each student enrolled in the school:

21 (A) Has access to and use of computer and printer equipment as needed;

22 (B) Is offered an Internet service cost reimbursement arrangement under which the
 23 school reimburses the parent or guardian of the student, at a rate set by the school, for the
 24 costs of obtaining Internet service at the minimum connection speed required to effectively
 25 access the education program provided by the school; or

26 (C) Has access to and use of computer and printer equipment and is offered Internet
 27 service cost reimbursement.

28 (j) A plan to provide access to computer and printer equipment and the Internet service
 29 cost reimbursement as described in paragraph (i) of this subsection by students enrolled in
 30 the school who are from families that qualify as low-income under Title I of the federal El-
 31 elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

32 (k) A plan to provide each student enrolled in the school with the materials required to
 33 complete lessons, including textbooks and educational materials.

34 (L) A plan to conduct school-sponsored optional educational events at least six times
 35 each school year at locations selected to provide convenient access to all students enrolled
 36 in the school who want to participate.

37 (m) A plan to conduct biweekly meetings between teachers and students enrolled in the
 38 school, either in person or through the use of conference calls or other technology.

39 (n) A plan to provide opportunities for face-to-face meetings between teachers and stu-
 40 dents enrolled in the school at least six times each school year.

41 (o) A proposal for how the school will comply with:

42 (A) The provisions of ORS 338.115 (1)(a) to (r); and

43 (B) The provisions of this chapter that are not specially waived by the Oregon State
 44 Charter School Board under ORS 338.025.

45 (3) The Oregon State Charter School Board shall review proposals submitted under this

1 section as provided under ORS 338.055.

2 **SECTION 4.** The Charter School Distribution Fund is created separate and distinct from
 3 the General Fund. The Charter School Distribution Fund consists of moneys transferred by
 4 the Department of Education under ORS 338.155. All moneys in the fund are continuously
 5 appropriated to the Oregon State Charter School Board for the purpose of making distrib-
 6 utions as provided by ORS 338.155 to schools that are sponsored by the board.

7 **SECTION 5.** The Oregon State Charter School Board Fund is created separate and dis-
 8 tinct from the General Fund. The Oregon State Charter School Board Fund consists of fed-
 9 eral funds transferred by the Department of Education under ORS 338.185. All moneys in the
 10 fund are continuously appropriated to the Oregon State Charter School Board for the pur-
 11 poses of this chapter or for the designated purposes for which the moneys were received.

12 **SECTION 6.** Notwithstanding the term of office specified in section 2 of this 2009 Act, of
 13 the members first appointed to the Oregon State Charter School Board:

- 14 (1) Two shall serve for terms ending July 1, 2010.
- 15 (2) Two shall serve for terms ending July 1, 2011.
- 16 (3) Two shall serve for terms ending July 1, 2012.
- 17 (4) Three shall serve for terms ending July 1, 2013.

18 **SECTION 7.** ORS 338.005 is amended to read:

19 338.005. As used in this chapter, unless the context requires otherwise:

20 (1) "Applicant" means any person or group that develops and submits a written proposal for a
 21 public charter school to a sponsor.

22 (2) "Public charter school" means an elementary or secondary school offering a comprehensive
 23 instructional program operating under a written agreement entered into between a sponsor and an
 24 applicant and operating pursuant to this chapter.

25 (3) "Remote and necessary school district" means a school district that offers kindergarten
 26 through grade 12 and has:

27 (a) An average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal year of
 28 less than 110; and

29 (b) A school that is located, by the nearest traveled road, more than 20 miles from the nearest
 30 school or from a city with a population of more than 5,000.

31 (4) "Sponsor" means:

32 (a) The board of the common school district or the union high school district in which the public
 33 charter school is located that has developed a written charter with an applicant to create a public
 34 charter school.

35 *[(b) The State Board of Education pursuant to ORS 338.075.]*

36 **(b) The Oregon State Charter School Board pursuant to ORS 338.075 or section 3 of this**
 37 **2009 Act.**

38 **SECTION 8.** ORS 338.025, as amended by section 13, chapter 50, Oregon Laws 2008, is amended
 39 to read:

40 338.025. *[(1) The State Board of Education may adopt any rules necessary for the implementation*
 41 *of this chapter. The rules shall follow the intent of this chapter.]*

42 *[(2)]* Upon application by a public charter school, the *[State Board of Education]* **Oregon State**
 43 **Charter School Board** may grant a waiver of any provision of this chapter if the waiver promotes
 44 the development of programs by providers, enhances the equitable access by underserved families
 45 to the public education of their choice, extends the equitable access to public support by all students

1 or permits high quality programs of unusual cost. The [*State Board of Education*] **Oregon State**
 2 **Charter School Board** may not waive any appeal provision in this chapter or any provision under
 3 ORS 338.115 (1)(a) to (s).

4 **SECTION 9.** ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, and section
 5 14, chapter 50, Oregon Laws 2008, 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*] **Oregon State**
 9 **Charter School Board** may grant a waiver of any provision of this chapter if the waiver promotes
 10 the development of programs by providers, enhances the equitable access by underserved families
 11 to the public education of their choice, extends the equitable access to public support by all students
 12 or permits high quality programs of unusual cost. The [*State Board of Education*] **Oregon State**
 13 **Charter School Board** may not waive any appeal provision in this chapter or any provision under
 14 ORS 338.115 (1)(a) to (t).

15 **SECTION 10.** ORS 338.035 is amended to read:

16 338.035. (1) A public charter school may be established:

17 (a) As a new public school;

18 (b) From an existing public school or a portion of the school; or

19 (c) From an existing alternative education program, as defined in ORS 336.615.

20 (2)(a) Before a public charter school may operate as a public charter school, it must:

21 (A) Be approved by a sponsor;

22 (B) Be established as a nonprofit organization under the laws of Oregon; and

23 (C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal
 24 Revenue Code.

25 (b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and
 26 (C) of this subsection do not apply to:

27 (A) A school in a school district that is composed of only one school; and

28 (B) A school in a school district that is a remote and necessary school district on the date the
 29 school first begins operation as a public charter school.

30 (3) **Except as provided in section 3 of this 2009 Act**, an applicant seeking to establish a public
 31 charter school shall submit a proposal pursuant to ORS 338.045 to the school district board of the
 32 school district within which the public charter school will be located at least 120 days prior to the
 33 date upon which the public charter school would begin operating. However, it is recommended that
 34 an applicant consult with the school district board prior to submitting a proposal.

35 (4) An applicant seeking to establish a public charter school shall provide to the [*State Board*
 36 *of Education*] **Oregon State Charter School Board** a copy of any proposal submitted to a school
 37 district board under ORS 338.045 and a copy of any subsequent approval by the school district
 38 board.

39 (5)(a) One or more, but not all, schools in a school district may become public charter schools.

40 (b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is com-
 41 posed of only one school may become a public charter school.

42 (6)(a) A school district board or the [*State Board of Education*] **Oregon State Charter School**
 43 **Board** may not approve a public charter school proposal that authorizes the conversion of any pri-
 44 vate school that is tuition based to a public charter school.

45 (b) Notwithstanding paragraph (a) of this subsection, a school district board or the [*State Board*

1 of Education] **Oregon State Charter School Board** may authorize the conversion of an existing
2 alternative education program, as defined in ORS 336.615, to a public charter school.

3 (7) A school district board or the [*State Board of Education*] **Oregon State Charter School**
4 **Board** may not approve a public charter school proposal that is affiliated with a nonpublic sectarian
5 school or a religious institution.

6 **SECTION 11.** ORS 338.055 is amended to read:

7 338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045 **or section 3**
8 **of this 2009 Act**, the school district board **or the Oregon State Charter School Board** shall hold
9 a public hearing on the provisions of the proposal.

10 (2) The school district board **or Oregon State Charter School Board** shall evaluate a proposal
11 in good faith using the following criteria:

12 (a) The demonstrated, sustainable support for the public charter school by teachers, parents,
13 students and other community members, including comments received at the public hearing held
14 under subsection (1) of this section;

15 (b) The demonstrated financial stability of the public charter school;

16 (c) The capability of the applicant, in terms of support and planning, to provide comprehensive
17 instructional programs to students pursuant to an approved proposal;

18 (d) The capability of the applicant, in terms of support and planning, to specifically provide,
19 pursuant to an approved proposal, comprehensive instructional programs to students identified by
20 the applicant as academically low achieving;

21 (e) The extent to which the proposal addresses the information required in ORS 338.045 **or**
22 **section 3 (2) of this 2009 Act**;

23 (f) Whether the value of the public charter school is outweighed by any directly identifiable,
24 significant and adverse impact on the quality of the public education of students residing in the
25 school district in which the public charter school will be located;

26 (g) Whether there are arrangements for any necessary special education and related services for
27 children with disabilities pursuant to ORS 338.165; and

28 (h) Whether there are alternative arrangements for students and for teachers and other school
29 employees who choose not to attend or who choose not to be employed by the public charter school.

30 (3) The school district board **or Oregon State Charter School Board** must approve a proposal
31 or state in writing the reasons for disapproving a proposal within 30 days after the public hearing
32 held under subsection (1) of this section.

33 (4) Written notice of the [*school district board's*] action **by the school district board or the**
34 **Oregon State Charter School Board** shall be sent to the applicant. If the proposal is not approved,
35 the reasons for the denial and suggested remedial measures, if any, shall be clearly stated in the
36 notice sent **to the applicant** by the school district board [*to the applicant*] **or the Oregon State**
37 **Charter School Board**. If the proposal is not approved, the applicant may amend the proposal to
38 address objections and any suggested remedial measures and resubmit the proposal to the school
39 district board **or the Oregon State Charter School Board**. The school district board **or the**
40 **Oregon State Charter School Board** shall approve or disapprove the resubmitted proposal within
41 20 days after receiving it. If the proposal is not approved, the applicant may appeal the decision:

42 (a) Of the school district board to the [*State Board of Education.*] **Oregon State Charter**
43 **School Board; or**

44 (b) **Of the Oregon State Charter School Board to a circuit court pursuant to ORS 183.484.**

45 (5) Individual elements in a public charter school proposal may be changed through the proposal

1 and chartering process.

2 (6) A proposal to convert an existing public school to a public charter school must be approved
3 by the school district board of the public school.

4 (7) The school district board or the [*State Board of Education shall*] **Oregon State Charter**
5 **School Board** may not charge any fee to applicants for the proposal process.

6 (8) Upon request by a school district, the [*State Board of Education*] **Oregon State Charter**
7 **School Board** may grant an extension of any timeline required by this section if the district has
8 good cause for requesting the extension.

9 **SECTION 12.** ORS 338.065 is amended to read:

10 338.065. (1) Upon approval of a proposal by a school district board **or the Oregon State**
11 **Charter School Board** under ORS 338.055, the school district board **or the Oregon State Charter**
12 **School Board** shall become the sponsor of the public charter school. The sponsor and applicant
13 shall develop a written charter that contains the provisions of the proposal that have been duly
14 approved by the sponsor and public charter school governing body. The sponsor and the applicant
15 may agree to change elements of the proposal prior to incorporating them into the charter or ex-
16 clude elements of the proposal from the charter. The charter, when duly executed by the sponsor
17 and the public charter school governing body, shall act as the legal authorization for the establish-
18 ment of the public charter school. The charter shall be legally binding on both the sponsor and the
19 public charter school governing body.

20 (2) The sponsor and the public charter school governing body may amend a charter by joint
21 agreement.

22 (3)(a) The initial charter shall be in effect for a period of not more than five years and shall be
23 renewed upon the authorization of the sponsor using the process established under this section.

24 (b) The first renewal of a charter shall be for the same time period as the initial charter.

25 (c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed
26 10 years.

27 (4)(a) The renewal of a charter shall use the process required by this section.

28 (b) The public charter school governing body shall submit a written renewal request to the
29 sponsor for consideration at least 180 days prior to the expiration of the charter.

30 (c) Within 45 days after receiving a written renewal request from a public charter school gov-
31 erning body, the sponsor shall hold a public hearing regarding the request for renewal.

32 (d) Within 10 days after the public hearing, the sponsor shall notify the public charter school
33 governing body of the sponsor's intent about the renewal of the charter.

34 (e) Within 20 days after the public hearing, the sponsor shall approve the renewal of the charter
35 or state in writing the reasons for denying the renewal of the charter.

36 (f) If the sponsor approves the renewal of the charter, the sponsor and the public charter school
37 governing body shall negotiate a new charter within 90 days after the date on which the sponsor
38 approved the renewal of the charter unless the sponsor and the public charter school governing
39 body agree to an extension of the time period.

40 (g) If the sponsor does not renew the charter, the public charter school governing body may
41 address the reasons stated under paragraph (e) of this subsection and any remedial measures sug-
42 gested by the sponsor and submit a revised request for renewal to the sponsor.

43 (h) Notwithstanding paragraphs (b) to (g) of this subsection, a sponsor and a public charter
44 school governing body may agree in the charter of the school to a timeline for renewing the charter
45 that is different from the timeline required by paragraphs (b) to (g) of this subsection.

1 (5)(a) If the sponsor does not renew the charter based on the revised request for renewal sub-
 2 mitted under subsection (4)(g) of this section, the public charter school governing body may appeal
 3 the decision of the sponsor to the [*State Board of Education*] **Oregon State Charter School Board**
 4 for a review of whether the sponsor used the process required by this section in denying the renewal
 5 of the charter.

6 (b) If the board finds that the sponsor used the process required by this section in denying the
 7 request for renewal, the board shall affirm the decision of the sponsor. A public charter school
 8 governing body may seek judicial review of an order of the board pursuant to ORS 183.484.

9 (c) If the board finds that the sponsor did not use the process required by this section in denying
 10 the request for renewal, the board shall order the sponsor to reconsider the request for renewal.

11 (d) If after reconsideration pursuant to paragraph (c) of this subsection the sponsor does not
 12 renew the charter, the public charter school governing body may seek judicial review of an order
 13 of the sponsor pursuant to ORS 183.484.

14 (e) If the board is the sponsor of a public charter school and the board does not renew the
 15 charter based on the revised request for renewal submitted under subsection (4)(g) of this section,
 16 the public charter school governing body may seek judicial review of an order of the board pursuant
 17 to ORS 183.484 for a review of whether the board used the process required by this section in de-
 18 nying the request for renewal.

19 (6)(a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether
 20 the public charter school:

21 (A) Is in compliance with this chapter and all other applicable state and federal laws;

22 (B) Is in compliance with the charter of the public charter school;

23 (C) Is meeting or working toward meeting the student performance goals and agreements spec-
 24 ified in the charter or any other written agreements between the sponsor and the public charter
 25 school governing body;

26 (D) Is fiscally stable; and

27 (E) Is in compliance with any renewal criteria specified in the charter of the public charter
 28 school.

29 (b) The sponsor shall base the renewal evaluation described in paragraph (a) of this subsection
 30 primarily on [*a review of the public charter school's annual performance reports, annual audit of ac-*
 31 *counts and annual site visit and review as required by ORS 338.095*] **the information acquired un-**
 32 **der ORS 338.095** and any other information mutually agreed upon by the public charter school
 33 governing body and the sponsor.

34 **SECTION 13.** ORS 338.075 is amended to read:

35 338.075. (1) If a school district board does not approve a proposal to start a public charter
 36 school pursuant to ORS 338.055, the applicant may request that the [*State Board of Education*]
 37 **Oregon State Charter School Board** review the decision of the school district board.

38 (2) Upon receipt of a request for review, the [*State Board of Education*] **Oregon State Charter**
 39 **School Board:**

40 (a) Shall attempt to mediate a resolution between the applicant and the school district board.

41 (b) May recommend to the applicant and school district board revisions to the proposal.

42 (c) If the school district board does not accept the revisions to the proposal and the applicant
 43 agrees to the sponsorship, may become the sponsor of the public charter school.

44 (3) Upon receipt of a request for review, in addition to actions described in subsection (2) of this
 45 section and at any time during the review process, the [*State Board of Education*] **Oregon State**

1 **Charter School Board** may reject a proposal to start a public charter school if the school fails to
 2 meet the requirements of this chapter.

3 (4) An applicant may seek judicial review of an order of the [*State Board of Education*] **Oregon**
 4 **State Charter School Board** pursuant to ORS 183.484. If the court finds that the decision of the
 5 [*State Board of Education*] **board** is not supported by substantial evidence in the record, the court
 6 shall enter a judgment directing the [*State Board of Education*] **board** to sponsor the public charter
 7 school.

8 **SECTION 14.** ORS 338.095 is amended to read:

9 338.095. (1) A public charter school shall report to the sponsor and the [*State Board of*
 10 *Education*] **Oregon State Charter School Board** at least annually on the performance of the school
 11 and its students. A public charter school shall disclose in its report information necessary to make
 12 a determination of compliance with the requirements of this chapter. The sponsor or the sponsor's
 13 designee at least annually shall visit the public charter school site and review the public charter
 14 school's compliance with the terms and provisions of the charter.

15 (2) The public charter school shall have an annual audit of the accounts of the public charter
 16 school prepared in accordance with the Municipal Audit Law, ORS 297.405 to 297.555 and 297.990.
 17 The annual audit shall be forwarded to the sponsor, the [*State Board of Education*] **Oregon State**
 18 **Charter School Board** and the Department of Education.

19 (3) The [*State Board of Education*] **Oregon State Charter School Board** may require public
 20 charter schools to file reports with the Department of Education as necessary to enable the de-
 21 partment to gather information on public charter schools for inclusion in the Oregon Report Card
 22 issued pursuant to ORS 329.115.

23 (4) **In addition to the requirements described in this section, the Oregon State Charter**
 24 **School Board shall require an independent third party to conduct a comprehensive evaluation**
 25 **of a charter school that provides online instruction and that is sponsored by the board as**
 26 **provided by section 3 (1)(b) of this 2009 Act. The board may enter into a contract with an**
 27 **independent third party to conduct the evaluation.**

28 **SECTION 15.** ORS 338.105 is amended to read:

29 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the
 30 following grounds:

- 31 (a) Failure to meet the terms of an approved charter or this chapter.
- 32 (b) Failure to meet the requirements for student performance stated in the charter.
- 33 (c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.
- 34 (d) Failure to maintain insurance as described in the charter.
- 35 (e) Failure to maintain financial stability.

36 (2) If a charter is terminated under subsection (1) of this section, the sponsor shall notify the
 37 public charter school governing body at least 60 days prior to the proposed effective date of the
 38 termination. The notice shall state the grounds for the termination. The public charter school gov-
 39 erning body may request a hearing by the sponsor.

40 (3) A public charter school governing body may appeal any decision of a sponsor that is:

41 (a) A school district board to the [*State Board of Education*] **Oregon State Charter School**
 42 **Board**. The [*State Board of Education*] **Oregon State Charter School Board** shall adopt by rule
 43 procedures to ensure a timely appeals process to prevent disruption of students' education.

44 (b) The [*State Board of Education*] **Oregon State Charter School Board** to the circuit court
 45 pursuant to ORS 183.484.

1 (4)(a) Notwithstanding subsection (2) of this section, a sponsor may terminate a charter imme-
 2 diately and close a public charter school if the public charter school is endangering the health or
 3 safety of the students enrolled in the public charter school.

4 (b) The public charter school governing body may request a hearing from the sponsor on the
 5 termination of the charter under this subsection. The sponsor shall hold a hearing within 10 days
 6 after receiving the request.

7 (c) The public charter school governing body may appeal a decision of a sponsor under this
 8 subsection to the [State Board of Education] **Oregon State Charter School Board**. The [State Board
 9 of Education] **Oregon State Charter School Board** shall hold a hearing within 10 days after re-
 10 ceiving the appeal request.

11 (d) Throughout the appeals process, the public charter school shall remain closed at the dis-
 12 cretion of the sponsor unless the [State Board of Education] **Oregon State Charter School Board**
 13 orders the sponsor to open the public charter school and not terminate the charter.

14 (5) Termination of a charter shall not abridge the public charter school's legal authority to op-
 15 erate as a private or nonchartered public school.

16 (6) If a charter is terminated or a public charter school is dissolved, the assets of the public
 17 charter school that were purchased with public funds shall be given to the [State Board of
 18 Education] **Oregon State Charter School Board**. The [State Board of Education] **Oregon State**
 19 **Charter School Board** may disburse the assets of the public charter school to school districts or
 20 other public charter schools.

21 (7) A public charter school governing body may [only] terminate a charter, dissolve or close a
 22 public charter school **only** at the end of a semester. If a charter is terminated by the public charter
 23 school governing body or a public charter school is closed or dissolved, the public charter school
 24 governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the
 25 termination, closure or dissolution.

26 **SECTION 16.** ORS 338.125, as amended by section 23, chapter 100, Oregon Laws 2007, is
 27 amended to read:

28 338.125. (1) Student enrollment in a public charter school shall be voluntary. All students who
 29 reside within the school district where the public charter school is located are eligible for enroll-
 30 ment at a public charter school. If the number of applications from students who reside within the
 31 school district exceeds the capacity of a program, class, grade level or building, the public charter
 32 school shall select students through an equitable lottery selection process. However, after a public
 33 charter school has been in operation for one or more years, the public charter school may give
 34 priority for admission to students:

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

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

38 (2)(a) **Except as provided in paragraph (b) of this subsection**, if space is available a public
 39 charter school may admit students who do not reside in the school district in which the public
 40 charter school is located.

41 (b) [Notwithstanding paragraph (a) of this subsection,] If a public charter school offers any online
 42 courses as part of the curriculum of the school, then 50 percent or more of the students who attend
 43 the public charter school must reside in the school district in which the public charter school is
 44 located. **This paragraph does not apply to public charter schools that are sponsored by the**
 45 **Oregon State Charter School Board as provided by section 3 (1)(b) of this 2009 Act.**

1 (3) A public charter school may not limit student admission based on race, religion, sex, sexual
 2 orientation, ethnicity, national origin, disability, income level, proficiency in the English language
 3 or athletic ability, but may limit admission to students within a given age group or grade level.

4 (4) A public charter school may conduct fund-raising activities. However, a public charter school
 5 may not require a student to participate in fund-raising activities as a condition of admission to the
 6 public charter school.

7 **SECTION 17.** ORS 338.135 is amended to read:

8 338.135. (1) Employee assignment to a public charter school shall be voluntary.

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

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

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

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

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

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

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

33 (7)(a) Any person employed as an administrator in a public charter school shall be licensed or
 34 registered to administer by the Teacher Standards and Practices Commission.

35 (b) Any person employed as a teacher in a public charter school shall be licensed or registered
 36 to teach by the commission.

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

40 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
 41 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
 42 of a labor organization or organize with other employees to bargain collectively. Bargaining units
 43 at the public charter school may be separate from other bargaining units of the sponsor or of the
 44 school district in which the public charter school is located. Employees of a public charter school
 45 may be part of the bargaining units of the sponsor or of the school district in which the public

1 charter school is located.

2 (9) A school district or the [*State Board of Education*] **Oregon State Charter School Board**
 3 may not waive the right to sponsor a public charter school in a collective bargaining agreement.

4 **SECTION 18.** ORS 338.155 is amended to read:

5 338.155. (1) Students of a public charter school shall be considered to be residents of the school
 6 district in which the public charter school is located for purposes of distribution of the State School
 7 Fund.

8 (2) A school district shall contractually establish, with any public charter school that is spon-
 9 sored by the board of the school district, payment for provision of educational services to the public
 10 charter school’s students. The payment shall equal an amount per weighted average daily member-
 11 ship (ADMw) of the public charter school that is at least equal to:

12 (a) Eighty percent of the amount of the school district’s General Purpose Grant per ADMw as
 13 calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight;
 14 and

15 (b) Ninety-five percent of the amount of the school district’s General Purpose Grant per ADMw
 16 as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

17 (3) A school district shall contractually establish, with any public charter school that is spon-
 18 sored by the [*State Board of Education*] **Oregon State Charter School Board** and within the
 19 boundaries of the school district, payment for provision of educational services to the public charter
 20 school’s students. The payment shall equal an amount per weighted average daily membership
 21 (ADMw) of the public charter school that is at least equal to:

22 (a) Ninety percent of the amount of the school district’s General Purpose Grant per ADMw as
 23 calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight;
 24 and

25 (b) Ninety-five percent of the amount of the school district’s General Purpose Grant per ADMw
 26 as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

27 (4) The estimated amount of each school district’s General Purpose Grant per ADMw shall be
 28 determined each year by the Department of Education and made available to all school districts.

29 (5)(a) The school district in which the public charter school is located shall transfer an amount
 30 per weighted average daily membership (ADMw) of the public charter school that is equal to 50
 31 percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under
 32 ORS 327.013 that is not paid to the public charter school through a contract created pursuant to
 33 [*subsections*] **subsection** (2) or (3) of this section to[.:]

34 [(a)] any school district in which the parent or guardian of or person in parental relationship
 35 to a student of a public charter school resides pursuant to ORS 339.133 and 339.134[; or].

36 [(b) *The Department of Education if the State Board of Education is the sponsor of the public*
 37 *charter school.*]

38 (b) **The Department of Education shall transfer from the State School Fund to the**
 39 **Charter School Distribution Fund an amount per weighted average daily membership**
 40 **(ADMw) of the public charter school that is equal to 50 percent of the amount of the school**
 41 **district’s General Purpose Grant per ADMw as calculated under ORS 327.013 that is not paid**
 42 **to the public charter school through a contract created pursuant to subsection (2) or (3) of**
 43 **this section if the Oregon State Charter School Board is the sponsor of the public charter**
 44 **school. The amount transferred to a school district under ORS 327.008 that is attributable**
 45 **to students who attend a public charter school that is located in the school district and**

1 **sponsored by the Oregon State Charter School Board shall be reduced by the amount trans-**
 2 **ferred by the department under this paragraph.**

3 *[(6) The department may use any money received under this section for activities related to public*
 4 *charter schools.]*

5 *[(7)]* (6) A school district and a public charter school may negotiate to establish a payment for
 6 the provision of educational services to the public charter school's students that is more than the
 7 minimum amounts specified in subsection (2) or (3) of this section.

8 *[(8)]* (7) A school district shall send payment to a public charter school based on a contract
 9 negotiated under this section within 10 days after receiving payments from the State School Fund
 10 pursuant to ORS 327.095.

11 *[(9)(a)]* (8)(a) A public charter school may apply for any grant that is available to school dis-
 12 tricts or nonchartered public schools from the Department of Education. The department shall con-
 13 sider the application of the public charter school in the same manner as an application from a
 14 school district or nonchartered public school.

15 (b) The department shall award any grant that is available to school districts based solely on
 16 the weighted average daily membership (ADMw) of the school district directly to the public charter
 17 school. This paragraph does not apply to any grant from the State School Fund.

18 **SECTION 19.** ORS 327.297 is amended to read:

19 327.297. (1) In addition to those moneys distributed through the State School Fund, the Depart-
 20 ment of Education shall award grants to school districts, education service districts, the Youth
 21 Corrections Education Program and the Juvenile Detention Education Program for activities that
 22 relate to increases in student achievement, including:

23 (a) Early childhood support including establishing, maintaining or expanding quality
 24 prekindergarten programs and full-day kindergarten programs;

25 (b) Class size reduction with an emphasis on the reduction of kindergarten through grade three
 26 class sizes;

27 (c) Increases in instructional time including summer programs and before- and after-school pro-
 28 grams;

29 (d) Mentoring, teacher retention and professional development;

30 (e) Remediation, alternative learning and student retention;

31 (f) Services to at-risk youth;

32 (g) Programs to improve a student achievement gap between student groups identified by cul-
 33 ture, poverty, language and race and other student groups;

34 (h) Vocational education programs;

35 (i) Literacy programs; and

36 (j) Other research-based student improvement strategies approved by the State Board of Educa-
 37 tion.

38 (2)(a) Each school district, each education service district, the Youth Corrections Education
 39 Program and the Juvenile Detention Education Program may apply to the Department of Education
 40 for a grant.

41 (b) The department shall review and approve applications based on criteria established by the
 42 State Board of Education. In establishing the criteria, the State Board of Education shall consider
 43 the recommendations of the Quality Education Commission established under Executive Order 99-16
 44 and the recommendations of the Quality Education Commission established under ORS 327.500.

45 (c) The applications shall include the activities to be funded and the goals of the district or

1 program for increases in student performance. The applications shall become part of the local dis-
2 trict continuous improvement plan described in ORS 329.095.

3 (3) The Department of Education shall evaluate the annual progress of each recipient of grant
4 funds under this section toward the performance targets established by the Quality Education
5 Commissions. The evaluation shall become part of the requirements of the department for assessing
6 the effectiveness of the district under ORS 329.085, 329.095 and 329.105. The department shall ensure
7 district and program accountability by providing appropriate assistance, intervening and establish-
8 ing consequences in order to support progress toward the performance targets.

9 (4) Each biennium the Department of Education shall issue a report to the Legislative Assembly
10 on the grant program and the results of the grant program.

11 (5)(a) Notwithstanding ORS 338.155 [(9)] (8), the Department of Education may not award a
12 grant under this section directly to a public charter school.

13 (b) A school district that receives a grant under this section may transfer a portion of the grant
14 to a public charter school based on the charter of the school or any other agreement between the
15 school district and the public charter school.

16 (c) A public charter school that receives grant funds under this subsection shall use those funds
17 for the activities specified in subsection (1) of this section.

18 (6)(a) The amount of each grant for a program or school district = the program's or school
19 district's ADMw \times (the total amount available for distribution to programs and school districts as
20 grants in each fiscal year \div the total ADMw of all programs and school districts that receive a
21 grant).

22 (b) The amount of each grant for an education service district = the education service district's
23 ADMw \times (the total amount available for distribution to education service districts as grants in
24 each fiscal year \div the total ADMw of all education service districts that receive a grant).

25 (c) As used in this subsection, "ADMw" means:

26 (A) For a school district, the extended weighted average daily membership as calculated under
27 ORS 327.013, 338.155 [(1)] (2) and 338.165 [(2)] (3);

28 (B) For the Youth Corrections Education Program, the average daily membership as defined in
29 ORS 327.006 multiplied by 2.0;

30 (C) For the Juvenile Detention Education Program, the average daily membership as defined in
31 ORS 327.006 multiplied by 1.5; and

32 (D) For an education service district, the sum of the ADMw of the component school districts
33 of the education service district.

34 (7) Each district or program shall deposit the grant amounts it receives under this section in a
35 separate account, and shall apply amounts in that account to pay for activities described in the
36 district's or program's application.

37 (8) The State Board of Education may adopt any rules necessary for the administration of the
38 grant program.

39 **SECTION 20.** ORS 338.175 is amended to read:

40 338.175. (1) There is established a Public Charter School Development Fund, separate and dis-
41 tinct from the General Fund, consisting of all funds received **by the Department of Education**
42 from the federal government or from other sources for public charter school development and any
43 loans repaid under ORS 338.185. All expenses incurred in the administration of ORS 338.185 shall
44 be borne by the Public Charter School Development Fund. Interest earned by the fund shall be
45 credited to the fund.

1 (2) The moneys in the fund are appropriated continuously to the Department of Education.

2 (3) **No later than July 1 of each year, the department shall transfer no less than half of**
 3 **the moneys in the fund to the Oregon State Charter School Board for the purposes of this**
 4 **chapter or for the designated purposes for which the moneys were received.**

5 **SECTION 21.** ORS 338.185 is amended to read:

6 338.185. (1) The [*Department of Education*] **Oregon State Charter School Board** shall award
 7 grants and loans to public charter schools that have a charter approved by a sponsor or to appli-
 8 cants that wish to establish or expand a public charter school. The purpose of the grants and loans
 9 is to promote development of high quality public charter schools.

10 (2) Pursuant to rules adopted by the [*State Board of Education, the Department of Education*]
 11 **Oregon State Charter School Board, the board** shall award grants and loans on the basis of need.
 12 Priority for awarding grants and loans shall be to those public charter schools serving at-risk youth.

13 (3) The [*State Board of Education*] **Oregon State Charter School Board** shall adopt by rule
 14 criteria for awarding grants and loans under this section.

15 **SECTION 22.** Section 3 of this 2009 Act and the amendments to ORS 338.005, 338.055,
 16 338.065, 338.075, 338.125 and 338.155 by sections 7, 11 to 13, 16 and 18 of this 2009 Act first
 17 apply to charter schools that seek sponsorship from the Oregon State Charter School Board
 18 or that are sponsored by the Oregon State Charter School Board for school years beginning
 19 with the 2010-2011 school year or any subsequent school year.

20 **SECTION 23.** The duties, functions and powers of the State Board of Education relating
 21 to the administration and sponsorship of public charter schools are imposed upon, trans-
 22 ferred to and vested in the Oregon State Charter School Board.

23 **SECTION 24.** (1) The Superintendent of Public Instruction shall deliver to the Oregon
 24 State Charter School Board all records within the jurisdiction of the superintendent that
 25 relate to the duties, functions and powers transferred by section 23 of this 2009 Act.

26 (2) The chairperson of the Oregon State Charter School Board shall take possession of
 27 the records delivered under subsection (1) of this section.

28 (3) The Governor shall resolve any dispute between the State Board of Education and the
 29 Oregon State Charter School Board relating to transfers of records under this section, and
 30 the Governor's decision is final.

31 **SECTION 25.** (1) The unexpended balances of amounts authorized to be expended by the
 32 State Board of Education for the biennium beginning July 1, 2009, from revenues dedicated,
 33 continuously appropriated, appropriated or otherwise made available for the purpose of ad-
 34 ministering and enforcing the duties, functions and powers transferred by section 23 of this
 35 2009 Act are transferred to and are available for expenditure by the Oregon State Charter
 36 School Board for the biennium beginning July 1, 2009, for the purpose of administering and
 37 enforcing the duties, functions and powers transferred by section 23 of this 2009 Act.

38 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
 39 expenditures by the State Board of Education remain applicable to expenditures by the
 40 Oregon State Charter School Board under this section.

41 **SECTION 26.** The transfer of duties, functions and powers to the Oregon State Charter
 42 School Board by section 23 of this 2009 Act does not affect any action, proceeding or prose-
 43 cution involving or with respect to such duties, functions and powers begun before and
 44 pending at the time of the transfer, except that the Oregon State Charter School Board is
 45 substituted for the State Board of Education in the action, proceeding or prosecution.

1 **SECTION 27.** (1) Nothing in sections 23 to 30 of this 2009 Act relieves a person of a li-
2 ability, duty or obligation accruing under or with respect to the duties, functions and powers
3 transferred by section 23 of this 2009 Act. The Oregon State Charter School Board may
4 undertake the collection or enforcement of any such liability, duty or obligation.

5 (2) The rights and obligations of the State Board of Education legally incurred under
6 contracts, leases and business transactions executed, entered into or begun before the op-
7 erative date of section 23 of this 2009 Act accruing under or with respect to the duties,
8 functions and powers transferred by section 23 of this 2009 Act are transferred to the Oregon
9 State Charter School Board. For the purpose of succession to these rights and obligations,
10 the Oregon State Charter School Board is a continuation of the State Board of Education
11 and not a new authority.

12 **SECTION 28.** Notwithstanding the transfer of duties, functions and powers by section 23
13 of this 2009 Act, the rules of the State Board of Education with respect to such duties,
14 functions or powers that are in effect on the operative date of section 23 of this 2009 Act
15 continue in effect until superseded or repealed by rules of the Oregon State Charter School
16 Board. References in such rules of the State Board of Education to the State Board of Edu-
17 cation or an officer or employee of the State Board of Education are considered to be refer-
18 ences to the Oregon State Charter School Board or an officer or employee of the Oregon
19 State Charter School Board.

20 **SECTION 29.** Whenever, in any uncodified law or resolution of the Legislative Assembly
21 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
22 the context of the duties, functions and powers transferred by section 23 of this 2009 Act,
23 reference is made to the State Board of Education, or an officer or employee of the State
24 Board of Education, whose duties, functions or powers are transferred by section 23 of this
25 2009 Act, the reference is considered to be a reference to the Oregon State Charter School
26 Board or an officer or employee of the Oregon State Charter School Board who by section
27 23 of this 2009 Act is charged with carrying out such duties, functions and powers.

28 **SECTION 30.** For the purpose of harmonizing and clarifying statute sections published
29 in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the
30 "State Board of Education" or its officers, wherever they occur in ORS chapter 338, other
31 words designating the "Oregon State Charter School Board" or its officers.

32 **SECTION 31.** The transfer of duties, functions, powers, records and moneys by sections
33 23, 24 and 25 of this 2009 Act does not become operative until the members of the Oregon
34 State Charter School Board have been appointed and the chairperson has been elected. Until
35 then, the State Board of Education shall continue to perform the duties and functions, ex-
36 ercise the powers and have charge of the records and moneys.

37 **SECTION 32.** Except as otherwise specifically provided in section 31 of this 2009 Act,
38 sections 23 to 30 of this 2009 Act and the amendments to ORS 327.297, 338.005, 338.025,
39 338.035, 338.055, 338.065, 338.075, 338.095, 338.105, 338.125, 338.135, 338.155, 338.175 and 338.185
40 by sections 7 to 21 of this 2009 Act become operative on January 1, 2010.

41 **SECTION 33.** This 2009 Act being necessary for the immediate preservation of the public
42 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
43 on its passage.