

# Senate Bill 375

Sponsored by Senator WALKER

## 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**.

Requires public charter school proposal to describe financial management systems for school. Requires certain financial information to be provided with annual audit of accounts of public charter school. Allows sponsor to terminate charter based on public charter school's failure to maintain sound financial management systems for two consecutive years.

## A BILL FOR AN ACT

1  
2 Relating to financial management of charter schools; creating new provisions; and amending ORS  
3 338.045, 338.055, 338.065, 338.095 and 338.105.

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

5 **SECTION 1.** ORS 338.045 is amended to read:

6 338.045. (1) An applicant seeking to establish a public charter school shall submit a written  
7 proposal to a school district board.

8 (2) The proposal shall include, but need not be limited to:

9 (a) The identification of the applicant;

10 (b) The name of the proposed public charter school;

11 (c) A description of the philosophy and mission of the public charter school;

12 (d) A description of the curriculum of the public charter school;

13 (e) A description of the expected results of the curriculum and the verified methods of measuring  
14 and reporting objective results that will show the growth of knowledge of students attending the  
15 public charter school and allow comparisons with public schools;

16 (f) The governance structure of the public charter school;

17 (g) The projected enrollment to be maintained and the ages or grades to be served;

18 (h) The target population of students the public charter school will be designed to serve;

19 (i) A description of any distinctive learning or teaching techniques to be used in the public  
20 charter school;

21 (j) The legal address, facilities and physical location of the public charter school, if known;

22 (k) A description of admission policies and application procedures;

23 (L) The statutes and rules that shall apply to the public charter school;

24 (m) The proposed budget and financial plan for the public charter school and evidence that the  
25 proposed budget and financial plan for the public charter school are financially sound;

26 **(n) A description of the financial management systems for the public charter school and**  
27 **a plan for having the financial management systems in place at the time the school begins**  
28 **operating;**

29 [(n)] (o) The standards for behavior and the procedures for the discipline, suspension or expul-  
30 sion of students;

**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        [(o)] (p) The proposed school calendar for the public charter school, including the length of the  
2 school day and school year;

3        [(p)] (q) A description of the proposed staff members and required qualifications of teachers at  
4 the public charter school;

5        [(q)] (r) The date upon which the public charter school would begin operating;

6        [(r)] (s) The arrangements for any necessary special education and related services provided  
7 pursuant to ORS 338.165 for children with disabilities who may attend the public charter school;

8        [(s)] (t) Information on the manner in which community groups may be involved in the planning  
9 and development process of the public charter school;

10       [(t)] (u) The term of the charter;

11       [(u)] (v) The plan for performance bonding or insuring the public charter school, including  
12 buildings and liabilities;

13       [(v)] (w) A proposed plan for the placement of public charter school teachers, other school em-  
14 ployees and students of the public charter school upon termination or nonrenewal of a charter;

15       [(w)] (x) The manner in which the program review and fiscal audit will be conducted; and

16       [(x)] (y) In the case of an existing public school being converted to charter status:

17       (A) The alternative arrangements for students who choose not to attend the public charter  
18 school and for teachers and other school employees who choose not to participate in the public  
19 charter school; and

20       (B) The relationship that will exist between the public charter school and its employees, in-  
21 cluding evidence that the terms and conditions of employment have been addressed with affected  
22 employees and their recognized representative, if any.

23       (3) In addition to the requirements of subsection (2) of this section, the school district board  
24 may require any additional information the board considers relevant to the formation or operation  
25 of a public charter school.

26       (4) At the request of the applicant, the school district board may provide technical assistance  
27 in developing the proposal for operation of the public charter school.

28       (5) School districts, education service districts and other public bodies, as defined in ORS  
29 174.109, shall make available to the public lists of vacant and unused public buildings and portions  
30 of buildings that may be suitable for the operation of a public charter school. The lists shall be  
31 provided to developing or operating public charter schools within 30 days of a written request.  
32 Nothing in this subsection requires the owner of a building on the list to sell or lease the building  
33 or any portion of the building to a public charter school or a public charter school governing body.

34       **SECTION 2.** ORS 338.055 is amended to read:

35       338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school  
36 district board shall hold a public hearing on the provisions of the proposal.

37       (2) The school district board shall evaluate a proposal in good faith using the following criteria:

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

41       (b) The demonstrated financial stability of the public charter school, **including the demon-**  
42 **strated ability of the school to have sound financial management systems in place at the**  
43 **time the school begins operating;**

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

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

4 (e) The extent to which the proposal addresses the information required in ORS 338.045;

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

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

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

12 (3) The school district board must approve a proposal or state in writing the reasons for disap-  
 13 proving a proposal within 30 days after the public hearing held under subsection (1) of this section.

14 (4) Written notice of the school district board’s action shall be sent to the applicant. If the  
 15 proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall  
 16 be clearly stated in the notice sent by the school district board to the applicant. If the proposal is  
 17 not approved, the applicant may amend the proposal to address objections and any suggested reme-  
 18 dial measures and resubmit the proposal to the school district board. The school district board shall  
 19 approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is  
 20 not approved, the applicant may appeal the decision of the school district board to the State Board  
 21 of Education.

22 (5) Individual elements in a public charter school proposal may be changed through the proposal  
 23 and chartering process.

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

26 (7) The school district board or the State Board of Education shall not charge any fee to appli-  
 27 cants for the proposal process.

28 (8) Upon request by a school district, the State Board of Education may grant an extension of  
 29 any timeline required by this section if the district has good cause for requesting the extension.

30 **SECTION 3. The amendments to ORS 338.045 and 338.055 by sections 1 and 2 of this 2009**  
 31 **Act first apply to proposals submitted on or after the effective date of this 2009 Act.**

32 **SECTION 4.** ORS 338.095 is amended to read:

33 338.095. (1) A public charter school shall report to the sponsor and the State Board of Education  
 34 at least annually on the performance of the school and its students. A public charter school shall  
 35 disclose in its report information necessary to make a determination of compliance with the re-  
 36 quirements of this chapter. The sponsor or the sponsor’s designee at least annually shall visit the  
 37 public charter school site and review the public charter school’s compliance with the terms and  
 38 provisions of the charter.

39 (2) The public charter school shall have an annual audit of the accounts of the public charter  
 40 school prepared in accordance with the Municipal Audit Law, ORS 297.405 to 297.555 and 297.990.  
 41 The annual audit shall be forwarded to the sponsor, the State Board of Education and the Depart-  
 42 ment of Education, **including statements from the school showing the results of all operations**  
 43 **and transactions affecting the financial status of the school during the school’s last annual**  
 44 **audit period and a balance sheet containing a summary of the school’s assets and liabilities**  
 45 **as of the closing date of the school’s last annual audit period.**

1 (3) The State Board of Education may require public charter schools to file reports with the  
2 Department of Education as necessary to enable the department to gather information on public  
3 charter schools for inclusion in the Oregon Report Card issued pursuant to ORS 329.115.

4 **SECTION 5.** ORS 338.065 is amended to read:

5 338.065. (1) Upon approval of a proposal by a school district board under ORS 338.055, the  
6 school district board shall become the sponsor of the public charter school. The sponsor and appli-  
7 cant shall develop a written charter that contains the provisions of the proposal that have been duly  
8 approved by the sponsor and public charter school governing body. The sponsor and the applicant  
9 may agree to change elements of the proposal prior to incorporating them into the charter or ex-  
10 clude elements of the proposal from the charter. The charter, when duly executed by the sponsor  
11 and the public charter school governing body, shall act as the legal authorization for the establish-  
12 ment of the public charter school. The charter shall be legally binding on both the sponsor and the  
13 public charter school governing body.

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

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

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

19 (c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed  
20 10 years.

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

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

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

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

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

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

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

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

40 (5)(a) If the sponsor does not renew the charter based on the revised request for renewal sub-  
41 mitted under subsection (4)(g) of this section, the public charter school governing body may appeal  
42 the decision of the sponsor to the State Board of Education for a review of whether the sponsor used  
43 the process required by this section in denying the renewal of the charter.

44 (b) If the board finds that the sponsor used the process required by this section in denying the  
45 request for renewal, the board shall affirm the decision of the sponsor. A public charter school

1 governing body may seek judicial review of an order of the board pursuant to ORS 183.484.

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

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

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

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

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

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

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

19 (D) Is fiscally stable **and has sound financial management systems in place**; and

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

22 (b) The sponsor shall base the renewal evaluation described in paragraph (a) of this subsection  
23 primarily on a review of the public charter school's annual performance reports, annual audit of  
24 accounts and annual site visit and review as required by ORS 338.095 and any other information  
25 mutually agreed upon by the public charter school governing body and the sponsor.

26 **SECTION 6.** ORS 338.105 is amended to read:

27 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the  
28 following grounds:

29 (a) Failure to meet the terms of an approved charter or this chapter.

30 (b) Failure to meet the requirements for student performance stated in the charter.

31 (c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.

32 (d) Failure to maintain insurance as described in the charter.

33 (e) Failure to maintain financial stability.

34 (f) **Failure to maintain sound financial management systems for two consecutive years.**  
35 **The sponsor may use the information received from the annual audit of accounts conducted**  
36 **under ORS 338.095 as the basis for termination under this paragraph.**

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

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

42 (a) A school district board to the State Board of Education. The State Board of Education shall  
43 adopt by rule procedures to ensure a timely appeals process to prevent disruption of students' edu-  
44 cation.

45 (b) The State Board of Education to the circuit court 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. The State Board of Education shall hold a hearing  
 9 within 10 days after receiving the appeal request.

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

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

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

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

24 **SECTION 7. The amendments to ORS 338.105 by section 6 of this 2009 Act become oper-**  
 25 **ative on January 1, 2012.**

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