

B-Engrossed Senate Bill 767

Ordered by the Senate June 8
Including Senate Amendments dated May 1 and June 8

Sponsored by Senator DEVLIN, Representative BUCKLEY; Senators BONAMICI, DINGFELDER, Representatives DEMBROW, KAHL, WITT (at the request of Confederation of Oregon School Administrators, American Federation of Teachers-Oregon, Oregon School Employees Association, Oregon Education Association)

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.

Requires applicant that seeks to establish public charter school to submit plan for school's financial management system to school district board. Requires board to evaluate soundness of applicant's plan and to evaluate school's use of plan upon application for renewal of charter. Allows termination of charter if school fails to maintain sound financial management system for specified period of time.

Requires virtual public charter school to meet specified criteria.

Provides that for-profit entity, if virtual public charter school or sponsor of virtual public charter school contracts with entity to provide education services, may not be employer of school employees. Creates exception.

[Directs President of Senate and Speaker of House of Representatives to convene work group to ensure] **Establishes Online Learning Task Force for purpose of ensuring appropriate** access to online learning through public charter schools. Sunsets *[work group]* **task force** on convening of next regular biennial legislative session.

Imposes moratorium on approval of specified charters. Imposes limits on virtual public charter school enrollment. Sunsets moratorium and limits on July 1, 2011.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public charter schools; creating new provisions; amending ORS 338.005, 338.035, 338.045,
3 338.055, 338.065, 338.095, 338.105 and 338.135; and declaring an emergency.

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

5 **SECTION 1.** ORS 338.005 is amended to read:

6 338.005. As used in this chapter, unless the context requires otherwise:

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

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

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

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

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

18 (4) "Sponsor" means:

19 (a) The board of the common school district or the union high school district in which the public

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 charter school is located that has developed a written charter with an applicant to create a public
2 charter school.

3 (b) The State Board of Education pursuant to ORS 338.075.

4 (5)(a) **“Virtual public charter school” means a public charter school that provides online**
5 **courses.**

6 (b) **“Virtual public charter school” does not include a public charter school that primarily**
7 **serves students in a physical location.**

8 **SECTION 2.** ORS 338.035 is amended to read:

9 338.035. (1) A public charter school may be established:

10 (a) As a new public school;

11 (b) **As a virtual public charter school;**

12 [(b)] (c) From an existing public school or a portion of the school; or

13 [(c)] (d) From an existing alternative education program, as defined in ORS 336.615.

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

15 (A) Be approved by a sponsor;

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

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

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

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

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

24 (3) An applicant seeking to establish a public charter school shall submit a proposal pursuant
25 to ORS 338.045 to the school district board of the school district within which the public charter
26 school will be located at least 120 days prior to the date upon which the public charter school would
27 begin operating. However, it is recommended that an applicant consult with the school district
28 board prior to submitting a proposal.

29 (4) An applicant seeking to establish a public charter school shall provide to the State Board
30 of Education a copy of any proposal submitted to a school district board under ORS 338.045 and a
31 copy of any subsequent approval by the school district board.

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

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

35 (6)(a) A school district board or the State Board of Education may not approve a public charter
36 school proposal that authorizes the conversion of any private school that is tuition based to a public
37 charter school.

38 (b) Notwithstanding paragraph (a) of this subsection, a school district board or the State Board
39 of Education may authorize the conversion of an existing alternative education program, as defined
40 in ORS 336.615, to a public charter school.

41 (7) A school district board or the State Board of Education may not approve a public charter
42 school proposal that is affiliated with a nonpublic sectarian school or a religious institution.

43 **SECTION 3. The amendments to ORS 338.035 by section 2 of this 2009 Act apply to all**
44 **public charter schools operating in this state prior to, on or after the effective date of this**
45 **2009 Act.**

1 **SECTION 4.** ORS 338.045 is amended to read:

2 338.045. (1) An applicant seeking to establish a public charter school shall submit a written
3 proposal to a school district board.

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

5 (a) The identification of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (5) School districts, education service districts and other public bodies, as defined in ORS
10 174.109, shall make available to the public lists of vacant and unused public buildings and portions
11 of buildings that may be suitable for the operation of a public charter school. The lists shall be
12 provided to developing or operating public charter schools within 30 days of a written request.
13 Nothing in this subsection requires the owner of a building on the list to sell or lease the building
14 or any portion of the building to a public charter school or a public charter school governing body.

15 **SECTION 5.** ORS 338.055 is amended to read:

16 338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school
17 district board shall hold a public hearing on the provisions of the proposal.

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

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

22 (b) The demonstrated financial stability of the public charter school, **including the demon-**
23 **strated ability of the school to have a sound financial management system in place at the**
24 **time the school begins operating;**

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

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

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

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

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

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

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

40 (4) Written notice of the school district board's action shall be sent to the applicant. If the
41 proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall
42 be clearly stated in the notice sent by the school district board to the applicant. If the proposal is
43 not approved, the applicant may amend the proposal to address objections and any suggested reme-
44 dial measures and resubmit the proposal to the school district board. The school district board shall
45 approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is

1 not approved, the applicant may appeal the decision of the school district board to the State Board
2 of Education.

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

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

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

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

11 **SECTION 6. The amendments to ORS 338.045 and 338.055 by sections 4 and 5 of this 2009**
12 **Act apply to proposals submitted on or after the effective date of this 2009 Act.**

13 **SECTION 7. Section 8 of this 2009 Act is added to and made a part of ORS chapter 338.**

14 **SECTION 8. (1) In addition to any other requirements of this chapter for a public charter**
15 **school, a virtual public charter school must have:**

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

18 (b) Performance criteria the school will use to measure the progress of the school in
19 meeting the academic performance goals set by the school for its first five years of opera-
20 tion.

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

24 (d) A budget, business plan and governance plan for the operation of the school.

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

28 (f) Notwithstanding ORS 338.135 (7), an agreement to employ only licensed teachers who
29 are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110,
30 115 Stat. 1425).

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

33 (h) A plan to provide equitable access to the education program of the school by ensuring
34 that each student enrolled in the school:

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

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

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

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

1 (j) A plan to provide each student enrolled in the school with the materials required to
2 complete lessons, including textbooks and educational materials in:

3 (A) English; or

4 (B) The native language of the student if the student is learning English as a second
5 language or if the student does not have ready access to an instructor or mentor who reads
6 and speaks English.

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

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

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

14 (2) If a virtual public charter school enters into a contract with a third-party entity to
15 provide educational services for the virtual public charter school, the virtual public charter
16 school must have on file the third-party entity's budget for the provision of educational
17 services and that budget must itemize:

18 (a) The salaries of supervisory and management personnel and consultants who are pro-
19 viding educational or related services for a public charter school in this state; and

20 (b) The annual operating expenses and profit margin of the third-party entity for pro-
21 viding educational services to a public charter school in this state.

22 (3)(a) The sponsor of a virtual public charter school or a member of the public may re-
23 quest access to any of the documents described in subsections (1) and (2) of this section.

24 (b) Upon request by a sponsor or a member of the public, a virtual public charter school
25 must provide reasonable access to the documents described in subsections (1) and (2) of this
26 section. The documents may be provided electronically.

27 **SECTION 9.** Section 8 of this 2009 Act applies to all virtual public charter schools estab-
28 lished in this state prior to, on or after the effective date of this 2009 Act.

29 **SECTION 10.** ORS 338.065 is amended to read:

30 338.065. (1) Upon approval of a proposal by a school district board under ORS 338.055, the
31 school district board shall become the sponsor of the public charter school. The sponsor and appli-
32 cant shall develop a written charter that contains the provisions of the proposal that have been duly
33 approved by the sponsor and public charter school governing body. The sponsor and the applicant
34 may agree to change elements of the proposal prior to incorporating them into the charter or ex-
35 clude elements of the proposal from the charter. The charter, when duly executed by the sponsor
36 and the public charter school governing body, shall act as the legal authorization for the establish-
37 ment of the public charter school. The charter shall be legally binding on both the sponsor and the
38 public charter school governing body.

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

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

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

44 (c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed
45 10 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (D) Is fiscally stable **and has used the sound financial management system described in the**
45 **proposal submitted under ORS 338.045 and incorporated into the written charter under this**

1 **section;** and

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

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

8 **SECTION 11.** 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 Education
10 at least annually on the performance of the school and its students. A public charter school shall
11 disclose in its report information necessary to make a determination of compliance with the re-
12 quirements of this chapter. The sponsor or the sponsor's designee at least annually shall visit the
13 public charter school site and review the public charter school's compliance with the terms and
14 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*] **After an audit, the following** shall be forwarded to the sponsor, the State Board
18 of Education and the Department of Education:

19 (a) **A copy of the annual audit;**

20 (b) **Any statements from the public charter school that show the results of all operations
21 and transactions affecting the financial status of the public charter school during the pre-
22 ceding annual audit period for the school; and**

23 (c) **A balance sheet containing a summary of the assets and liabilities of the public
24 charter school as of the closing date of the preceding annual audit period for the school.**

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

28 **SECTION 12.** 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 (f) **Failure to maintain, for two or more consecutive years, a sound financial management
37 system described in the proposal submitted under ORS 338.045 and incorporated into the
38 written charter under ORS 338.065.**

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

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

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

1 cation.

2 (b) The State Board of Education to the circuit court pursuant to ORS 183.484.

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

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

9 (c) The public charter school governing body may appeal a decision of a sponsor under this
10 subsection to the State Board of Education. The State Board of Education shall hold a hearing
11 within 10 days after receiving the appeal request.

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

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

17 (6) If a charter is terminated or a public charter school is dissolved, the assets of the public
18 charter school that were purchased with public funds shall be given to the State Board of Education.
19 The State Board of Education may disburse the assets of the public charter school to school districts
20 or 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 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 13. The amendments to ORS 338.105 by section 12 of this 2009 Act become op-**
27 **erative on July 1, 2011.**

28 **SECTION 13a.** ORS 338.135 is amended to read:

29 338.135. (1) Employee assignment to a public charter school shall be voluntary.

30 (2)(a) A public charter school or the sponsor of the public charter school [*may be*] **is** considered
31 the employer of any employees of the public charter school. If a school district board is not the
32 sponsor of the public charter school, the school district board [*shall*] **may** not be the employer of
33 the employees of the public charter school and the school district board may not collectively bargain
34 with the employees of the public charter school. The public charter school governing body shall
35 control the selection of employees at the public charter school.

36 **(b) If a virtual public charter school or the sponsor of a virtual public charter school**
37 **contracts with a for-profit entity to provide educational services through the virtual public**
38 **charter school, the for-profit entity may not be the employer of any employees of the virtual**
39 **public charter school.**

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

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

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

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

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

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

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

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

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

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

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

29 **SECTION 13b. (1) Except as provided in subsection (2) of this section, ORS 338.135 (2)(b)**
30 **applies to all virtual public charter schools operating in this state prior to, on or after the**
31 **effective date of this 2009 Act.**

32 **(2) ORS 338.135 (2)(b) does not apply if a virtual public charter school or sponsor of a**
33 **virtual public charter school entered into a contract with a for-profit entity prior to the ef-**
34 **fective date of this 2009 Act and the contract provided for the employment of employees of**
35 **the virtual public charter school by the for-profit entity. A contract described in this sub-**
36 **section may not be extended or renewed.**

37 **SECTION 13c. ORS 338.125 (2)(b) applies to all public charter schools operating in this**
38 **state prior to, on or after the effective date of this 2009 Act unless:**

39 **(1) A public charter school has been granted a waiver of the provisions of ORS 338.125**
40 **(2)(b) by the State Board of Education under ORS 338.025; and**

41 **(2) The public charter school complies with the terms of the waiver described in sub-**
42 **section (1) of this section.**

43 **SECTION 14. (1) The Online Learning Task Force is established for the purpose of en-**
44 **sureing that this state provides appropriate access to online learning through public charter**
45 **schools.**

1 **(2)(a) The President of the Senate and the Speaker of the House of Representatives**
2 **jointly shall appoint 13 members to the task force as follows:**

3 **(A) Three members of the Senate, of whom two represent the majority party and one**
4 **represents the minority party.**

5 **(B) Three members of the House of Representatives, of whom two represent the majority**
6 **party and one represents the minority party.**

7 **(C) One member who represents the Department of Education.**

8 **(D) One member who is a representative of public education employees.**

9 **(E) One member who is a representative of school administrators.**

10 **(F) One member who is a representative of school boards.**

11 **(G) One member who represents education service districts.**

12 **(H) One member who represents public charter schools.**

13 **(I) One member who represents the Oregon University System.**

14 **(b) All appointments to the task force made under this subsection must be completed by**
15 **July 15, 2009.**

16 **(3) The task force shall:**

17 **(a) Prepare a report that must address:**

18 **(A) Grades and ages to be served by public online instruction through public charter**
19 **schools;**

20 **(B) Curriculum descriptions and accreditation or certification standards of online in-**
21 **struction offered through public charter schools;**

22 **(C) Accessibility of online instruction and accommodations of students to public charter**
23 **schools that offer online instruction;**

24 **(D) Methods of financing public charter schools that offer online instruction;**

25 **(E) Levels of funding for public charter schools that offer online instruction;**

26 **(F) Financial accountability of public charter schools that offer online instruction;**

27 **(G) Reporting of student outcomes and compliance with academic accountability stan-**
28 **dards at public charter schools that offer online instruction;**

29 **(H) The use of teachers licensed by the Teacher Standards and Practices Commission,**
30 **the teaching standards and the frequency of teacher contact at public charter schools that**
31 **offer online instruction;**

32 **(I) Examples of school policies at a public charter school that offers online instruction,**
33 **including policies involving online harassment, intimidation or bullying;**

34 **(J) The method of offering online instruction through school districts and education**
35 **service districts;**

36 **(K) Class sizes of online courses, including the student-to-teacher ratio for the online**
37 **courses;**

38 **(L) How to transition students currently enrolled in public charter schools that offer**
39 **online instruction to alternative learning options, if necessary;**

40 **(M) Methods to determine whether a school district is an appropriate sponsor of a public**
41 **charter school that provides online instruction; and**

42 **(N) Any other topic concerning the provision of high-quality online instruction to stu-**
43 **dents in this state and the accessibility of online instruction by students attending public**
44 **schools in this state.**

45 **(b) Prepare any necessary legislation based on the findings made in the report described**

1 in paragraph (a) of this subsection.

2 (4) A majority of the members of the task force constitutes a quorum for the transaction
3 of business.

4 (5) Official action by the task force requires the approval of a majority of the members
5 of the task force.

6 (6) The President of the Senate and the Speaker of the House of Representatives shall
7 jointly appoint one member of the Senate who represents the majority party and one member
8 of the House of Representatives who represents the majority party to serve as co-
9 chairpersons of the task force.

10 (7) If there is a vacancy for any cause, the appointing authority shall make an appoint-
11 ment to become immediately effective.

12 (8) The task force shall meet at times and places specified by:

13 (a) The work plan developed as provided in subsection (11) of this section;

14 (b) The call of the co-chairpersons or of a majority of the members of the task force; or

15 (c) The President of the Senate and the Speaker of the House of Representatives.

16 (9) The task force may adopt rules necessary for the operation of the task force.

17 (10) For the first special session of the Legislative Assembly occurring in 2010 or, if there
18 is not a special session in 2010, for the regular session of the Legislative Assembly occurring
19 in 2011, the task force shall presession file legislation in the manner provided in ORS 171.130
20 for interim committees. All legislation recommended by official action of the task force must
21 indicate that it is introduced at the request of the task force.

22 (11) No later than September 1, 2009, the co-chairpersons of the task force shall develop
23 and submit to the President of the Senate and the Speaker of the House of Representatives
24 a work plan that describes the timeline of the activities of the task force. The timeline must
25 include the following:

26 (a) At least four dates between August 1, 2009, and November 30, 2009, when the task
27 force will meet.

28 (b) The date when the task force will provide to the legislative education committees the
29 report described in subsection (3) of this section and recommendations for legislation. The
30 date may be no later than December 15, 2009.

31 (12) The Legislative Administrator may employ persons necessary for the performance
32 of the functions of the task force. The Legislative Administrator shall fix the duties and
33 amounts of compensation of these employees. The task force shall use the services of per-
34 manent legislative staff to the greatest extent practicable.

35 (13) All agencies of state government, as defined in ORS 174.111, are directed to assist
36 the task force in the performance of its duties and, to the extent permitted by laws relating
37 to confidentiality, to furnish such information and advice as the members of the task force
38 consider necessary to perform their duties.

39 **SECTION 15.** Section 14 of this 2009 Act is repealed on the date of the convening of the
40 next regular biennial legislative session.

41 **SECTION 16.** Section 17 of this 2009 Act is added to and made a part of ORS chapter 338.

42 **SECTION 17.** Notwithstanding any other provision of this chapter, the following morato-
43 rium is imposed:

44 (1) A school district board or the State Board of Education may not approve an applica-
45 tion for a charter for a virtual public charter school if the charter is:

1 (a) Pending on the effective date of this 2009 Act or submitted on or after the effective
2 date of this 2009 Act; and

3 (b) For a virtual public charter school that would be established in this state after the
4 effective date of this 2009 Act.

5 (2) A virtual public charter school established in this state prior to the effective date of
6 this 2009 Act may not increase the number of students to which online instruction is pro-
7 vided, based on the number of students to which online instruction was provided on May 1,
8 2009. This section applies to all virtual public charter schools established in this state prior
9 to, on or after the effective date of this 2009 Act unless:

10 (a) Fifty percent or more of the students who attend the virtual public charter school
11 reside in the school district in which the virtual public charter school is located, in which
12 case the number of students may increase until the students who reside in the school district
13 in which the virtual public charter school is located make up less than 50 percent of the
14 students of the virtual public charter school; or

15 (b) The virtual public charter school has been granted a waiver by the State Board of
16 Education under ORS 338.025 of the provisions of ORS 338.125 and the school complies with
17 the terms of the waiver.

18 (3) The State Board of Education may not approve a waiver of any provision of this
19 chapter under ORS 338.025 for a virtual public charter school established in this state prior
20 to, on or after the effective date of this 2009 Act. This subsection applies to requests for
21 waivers for a virtual public charter school that:

22 (a) Are pending before the State Board of Education or first submitted to the State Board
23 of Education on or after the effective date of this 2009 Act; or

24 (b) Are granted on or after April 27, 2009, in which case the waiver is immediately re-
25 voked.

26 SECTION 18. Section 17 of this 2009 Act is repealed on July 1, 2011.

27 SECTION 19. This 2009 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
29 on its passage.
30
