

Senate Bill 767

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 **as introduced**.

Prohibits State Board of Education from waiving residency requirement for virtual public charter school. Limits attendance of virtual public charter school to students in grades 7 through 12 unless specific requirements are met. Establishes criteria for proposal submitted by applicant for virtual public charter school.

Requires student to have approval of resident school district before student attends public charter school in another school district.

Prohibits State Board of Education from adopting rules that have fiscal impact related to public charter schools unless rules are adopted at legislative direction.

A BILL FOR AN ACT

1
2 Relating to public charter schools; creating new provisions; and amending ORS 338.005, 338.025,
3 338.035, 338.045, and 338.125.

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

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

23 (5) **"Virtual public charter school" means a public charter school that provides online**
24 **courses that constitute at least 50 percent of a sequential program of instruction.**

25 **SECTION 2.** ORS 338.025, as amended by section 13, chapter 50, Oregon Laws 2008, is amended
26 to read:

27 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation

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 of this chapter **that comply with the requirements of this subsection.** [*The rules*] **A rule**
 2 **adopted as provided by this subsection:**

3 (a) Shall follow the intent of this chapter[.]; and

4 (b) **May not impose a fiscal impact on a school district unless the rule is adopted at the**
 5 **direction of the Legislative Assembly.**

6 (2) Upon application by a public charter school, the State Board of Education may grant a
 7 waiver of any provision of this chapter if the waiver promotes the development of programs by
 8 providers, enhances the equitable access by underserved families to the public education of their
 9 choice, extends the equitable access to public support by all students or permits high quality pro-
 10 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
 11 chapter or any provision under ORS 338.115 (1)(a) to (s) **or 338.125 (2)(c).**

12 **SECTION 3.** ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, and section
 13 14, chapter 50, Oregon Laws 2008, is amended to read:

14 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
 15 of this chapter **that comply with the requirements of this subsection.** [*The rules*] **A rule**
 16 **adopted as provided by this subsection:**

17 (a) Shall follow the intent of this chapter[.]; and

18 (b) **May not impose a fiscal impact on a school district unless the rule is adopted at the**
 19 **direction of the Legislative Assembly.**

20 (2) Upon application by a public charter school, the State Board of Education may grant a
 21 waiver of any provision of this chapter if the waiver promotes the development of programs by
 22 providers, enhances the equitable access by underserved families to the public education of their
 23 choice, extends the equitable access to public support by all students or permits high quality pro-
 24 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
 25 chapter or any provision under ORS 338.115 (1)(a) to (t) **or 338.125 (2)(c).**

26 **SECTION 4.** (1) **The amendments to ORS 338.025 (1) by sections 2 and 3 of this 2009 Act**
 27 **apply to rules adopted by the State Board of Education on or after the effective date of this**
 28 **2009 Act.**

29 (2) **The amendments to ORS 338.025 (2) by sections 2 and 3 of this 2009 Act apply to re-**
 30 **quests for waivers submitted to the State Board of Education on or after the effective date**
 31 **of this 2009 Act.**

32 **SECTION 5.** ORS 338.035 is amended to read:

33 338.035. (1) A public charter school may be established:

34 (a) As a new public school;

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

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

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

38 (2) **A virtual public charter school may serve:**

39 (a) **Only students in grades 7 through 12; or**

40 (b) **Students in any grade if the virtual public charter school provides online courses that:**

41 (A) **Constitute less than 50 percent of the curriculum for the students;**

42 (B) **Are primarily provided at the site of a school that is not a virtual public charter**
 43 **school; and**

44 (C) **Are used in conjunction with a program at a school that is not a virtual public**
 45 **charter school.**

1 [(2)(a)] **(3)(a)** Before a public charter school may operate as a public charter school, it must:

- 2 (A) Be approved by a sponsor;
- 3 (B) Be established as a nonprofit organization under the laws of Oregon; and
- 4 (C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal
- 5 Revenue Code.

6 (b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and

7 (C) of this subsection do not apply to:

- 8 (A) A school in a school district that is composed of only one school; and
- 9 (B) A school in a school district that is a remote and necessary school district on the date the
- 10 school first begins operation as a public charter school.

11 [(3)] **(4)** An applicant seeking to establish a public charter school shall submit a proposal pur-

12 suant to ORS 338.045 to the school district board of the school district within which the public

13 charter school will be located at least 120 days prior to the date upon which the public charter

14 school would begin operating. However, it is recommended that an applicant consult with the school

15 district board prior to submitting a proposal.

16 [(4)] **(5)** An applicant seeking to establish a public charter school shall provide to the State

17 Board of Education a copy of any proposal submitted to a school district board under ORS 338.045

18 and a copy of any subsequent approval by the school district board.

19 [(5)(a)] **(6)(a)** One or more, but not all, schools in a school district may become public charter

20 schools.

21 (b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is com-

22 posed of only one school may become a public charter school.

23 [(6)(a)] **(7)(a)** A school district board or the State Board of Education may not approve a public

24 charter school proposal that authorizes the conversion of any private school that is tuition based

25 to a public charter school.

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

27 of Education may authorize the conversion of an existing alternative education program, as defined

28 in ORS 336.615, to a public charter school.

29 [(7)] **(8)** A school district board or the State Board of Education may not approve a public

30 charter school proposal that is affiliated with a nonpublic sectarian school or a religious institution.

31 **SECTION 6. The amendments to ORS 338.035 by section 5 of this 2009 Act apply to public**

32 **charter schools that enter into a charter or renew a charter on or after the effective date**

33 **of this 2009 Act.**

34 **SECTION 7.** ORS 338.045 is amended to read:

35 338.045. (1) An applicant seeking to establish a public charter school shall submit a written

36 proposal to a school district board.

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

- 38 (a) The identification of the applicant;
- 39 (b) The name of the proposed public charter school;
- 40 (c) A description of the philosophy and mission of the public charter school;
- 41 (d) A description of the curriculum of the public charter school;
- 42 (e) A description of the expected results of the curriculum and the verified methods of measuring
- 43 and reporting objective results that will show the growth of knowledge of students attending the
- 44 public charter school and allow comparisons with public schools;
- 45 (f) The governance structure of the public charter school;

- 1 (g) The projected enrollment to be maintained and the ages or grades to be served;
- 2 (h) The target population of students the public charter school will be designed to serve;
- 3 (i) A description of any distinctive learning or teaching techniques to be used in the public
- 4 charter school;
- 5 (j) The legal address, facilities and physical location of the public charter school, if known;
- 6 (k) A description of admission policies and application procedures;
- 7 (L) The statutes and rules that shall apply to the public charter school;
- 8 (m) The proposed budget and financial plan for the public charter school and evidence that the
- 9 proposed budget and financial plan for the public charter school are financially sound;
- 10 (n) The standards for behavior and the procedures for the discipline, suspension or expulsion
- 11 of students;
- 12 (o) The proposed school calendar for the public charter school, including the length of the
- 13 school day and school year;
- 14 (p) A description of the proposed staff members and required qualifications of teachers at the
- 15 public charter school;
- 16 (q) The date upon which the public charter school would begin operating;
- 17 (r) The arrangements for any necessary special education and related services provided pursuant
- 18 to ORS 338.165 for children with disabilities who may attend the public charter school;
- 19 (s) Information on the manner in which community groups may be involved in the planning and
- 20 development process of the public charter school;
- 21 (t) The term of the charter;
- 22 (u) The plan for performance bonding or insuring the public charter school, including buildings
- 23 and liabilities;
- 24 (v) A proposed plan for the placement of public charter school teachers, other school employees
- 25 and students of the public charter school upon termination or nonrenewal of a charter;
- 26 (w) The manner in which the program review and fiscal audit will be conducted; and
- 27 (x) In the case of an existing public school being converted to charter status:
- 28 (A) The alternative arrangements for students who choose not to attend the public charter
- 29 school and for teachers and other school employees who choose not to participate in the public
- 30 charter school; and
- 31 (B) The relationship that will exist between the public charter school and its employees, in-
- 32 cluding evidence that the terms and conditions of employment have been addressed with affected
- 33 employees and their recognized representative, if any.
- 34 **(3) In addition to other criteria included in a proposal submitted under subsection (1) of**
- 35 **this section, an applicant that submits a proposal for a virtual public charter school must**
- 36 **provide:**
- 37 **(a) A plan for academic achievement that addresses how the school will improve student**
- 38 **learning and meet academic content standards required by ORS 329.045.**
- 39 **(b) Performance criteria the school will use to measure the progress of the school in**
- 40 **meeting the academic performance goals set by the school for its first five years of opera-**
- 41 **tion.**
- 42 **(c) A plan for implementing the proposed education program of the school by directly and**
- 43 **significantly involving parents and guardians of students enrolled in the school and involving**
- 44 **the professional employees of the school.**
- 45 **(d) An agreement to provide to the State Board of Education and to the parents and**

1 guardians of students enrolled in the school an annual report that describes the progress of
 2 the school in meeting the academic performance goals set by the school for the preceding
 3 school year.

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

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

8 (g) Notwithstanding ORS 338.135 (7), an agreement to employ only licensed teachers who
 9 are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110,
 10 115 Stat. 1425).

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

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

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

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

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

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

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

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

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

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

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

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

37 (B) The provisions of this chapter that are not specially waived by the State Board of
 38 Education under ORS 338.025.

39 [(3)] (4) In addition to the requirements of [subsection (2)] subsections (2) and (3) of this sec-
 40 tion, the school district board may require any additional information the board considers relevant
 41 to the formation or operation of a public charter school.

42 [(4)] (5) At the request of the applicant, the school district board may provide technical assist-
 43 ance in developing the proposal for operation of the public charter school.

44 [(5)] (6) School districts, education service districts and other public bodies, as defined in ORS
 45 174.109, shall make available to the public lists of vacant and unused public buildings and portions

1 of buildings that may be suitable for the operation of a public charter school. The lists shall be
 2 provided to developing or operating public charter schools within 30 days of a written request.
 3 Nothing in this subsection requires the owner of a building on the list to sell or lease the building
 4 or any portion of the building to a public charter school or a public charter school governing body.

5 **SECTION 8. The amendments to ORS 338.045 by section 7 of this 2009 Act apply to pro-**
 6 **posals submitted on or after the effective date of this 2009 Act.**

7 **SECTION 9.** ORS 338.125, as amended by section 23, chapter 100, Oregon Laws 2007, is
 8 amended to read:

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

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

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

19 (2)(a) *[If space is available]* A public charter school may admit students who do not reside in the
 20 school district in which the public charter school is located~~.]~~ **if:**

21 **(A) Space is available; and**

22 **(B) Enrollment is necessary to meet a student's education needs and interests.**

23 **(b) Before a student may enroll in a public charter school that is not in the school dis-**
 24 **trict where the student is a resident, the parent or guardian of the student must receive**
 25 **approval of the resident school district and the attending school district. Additionally, if the**
 26 **child is determined to be eligible for special education under ORS 343.221 to 343.236 and**
 27 **343.261 to 343.295, the parent or guardian of the student must receive the approval of the**
 28 **Department of Education prior to the enrollment of the student.**

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

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

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

39 **SECTION 10. The amendments to ORS 338.125 by section 9 of this 2009 Act apply to stu-**
 40 **dents who first enroll in a public charter school on or after the effective date of this 2009**
 41 **Act.**