

Minority Report
C-Engrossed
Senate Bill 767

Ordered by the House June 17
Including Senate Amendments dated May 1 and June 8 and House
Minority Report Amendments dated June 17

Sponsored by nonconcurring members of the House Committee on Revenue: Representatives BERGER, BENTZ

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.

Exempts certain public charter schools from requirement that 50 percent or more of enrollment at public charter school that offers online courses be composed of students who reside in school district in which public charter school is located. Limits exemption until charter of public charter school is renewed.

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.

Establishes Online Learning Task Force for purpose of ensuring appropriate access to online learning through public charter schools. Sunsets 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]* **March 1, 2010**.

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

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 school or from a city with a population of more than 5,000.

2 (4) "Sponsor" means:

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

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

7 **(5) "Virtual public charter school" means a public charter school that provides online**
8 **courses that constitute at least 50 percent of a sequential program of instruction to a body**
9 **of students.**

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

11 338.035. (1) A public charter school may be established:

12 (a) As a new public school;

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

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

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

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

17 (A) Be approved by a sponsor;

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

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

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

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

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

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

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

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

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

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

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

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

45 **SECTION 3. The amendments to ORS 338.035 by section 2 of this 2009 Act apply to all**

1 **public charter schools operating in this state prior to, on or after the effective date of this**
2 **2009 Act.**

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

4 338.045. (1) An applicant seeking to establish a public charter school shall submit a written
5 proposal to a school district board.

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

7 (a) The identification of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (A) The alternative arrangements for students who choose not to attend the public charter

1 school and for teachers and other school employees who choose not to participate in the public
2 charter school; and

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

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

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

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

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

18 338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school
19 district board shall hold a public hearing on the provisions of the proposal.

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

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

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

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

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

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

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

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

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

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

42 (4) Written notice of the school district board's action shall be sent to the applicant. If the
43 proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall
44 be clearly stated in the notice sent by the school district board to the applicant. If the proposal is
45 not approved, the applicant may amend the proposal to address objections and any suggested reme-

1 dial measures and resubmit the proposal to the school district board. The school district board shall
2 approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is
3 not approved, the applicant may appeal the decision of the school district board to the State Board
4 of Education.

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

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

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

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

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

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

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

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

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

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

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

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

30 (f) **Notwithstanding ORS 338.135 (7), an agreement to employ only licensed teachers who**
31 **are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110,**
32 **115 Stat. 1425).**

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

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

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

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

42 (C) **Has access to and use of computer and printer equipment and is offered Internet**
43 **service cost reimbursement.**

44 (i) **A plan to provide access to computer and printer equipment and the Internet service**
45 **cost reimbursement as described in paragraph (h) of this subsection by students enrolled in**

1 the school who are from families that qualify as low-income under Title I of the federal El-
2 ementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

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

5 (A) English; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed
2 10 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (D) Is fiscally stable **and has used the sound financial management system described in the**
2 **proposal submitted under ORS 338.045 and incorporated into the written charter under this**
3 **section;** and

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

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

10 **SECTION 11.** ORS 338.095 is amended to read:

11 338.095. (1) A public charter school shall report to the sponsor and the State Board of Education
12 at least annually on the performance of the school and its students. A public charter school shall
13 disclose in its report information necessary to make a determination of compliance with the re-
14 quirements of this chapter. The sponsor or the sponsor's designee at least annually shall visit the
15 public charter school site and review the public charter school's compliance with the terms and
16 provisions of the charter.

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

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

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

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

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

30 **SECTION 12.** ORS 338.105 is amended to read:

31 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the
32 following grounds:

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

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

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

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

37 (e) Failure to maintain financial stability.

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

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

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

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

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

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

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

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

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

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

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

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

28 **SECTION 13. The amendments to ORS 338.105 by section 12 of this 2009 Act become op-**
29 **erative on July 1, 2011.**

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

31 338.135. (1) Employee assignment to a public charter school shall be voluntary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **SECTION 13c.** (1) **ORS 338.125 (2)(b) applies to all public charter schools operating in this**
40 **state prior to, on or after the effective date of this 2009 Act unless:**

41 (a) **A public charter school has been granted a waiver of the provisions of ORS 338.125**
42 **(2)(b) by the State Board of Education under ORS 338.025 and the public charter school**
43 **complies with the terms of the waiver; or**

44 (b) **The public charter school had a charter that first was executed prior to July 1, 2005,**
45 **and the public charter school has continuously been in operation since July 1, 2005.**

1 **(2) The provisions of subsection (1)(b) of this section apply only until the charter of the**
2 **public charter school is renewed. Upon renewal of a charter, the public charter school must**
3 **comply with the provisions of ORS 338.125 (2)(b) or the provisions of subsection (1)(a) of this**
4 **section.**

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

8 **(2)(a) The President of the Senate and the Speaker of the House of Representatives**
9 **jointly shall appoint 17 members to the task force as follows:**

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

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

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

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

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

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

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

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

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

21 **(J) One member who represents the State Board of Education.**

22 **(K) One member who is a principal of a virtual public charter school.**

23 **(L) One member who is a superintendent of a school district that is a sponsor of a virtual**
24 **public charter school.**

25 **(M) One member who is a parent of a student enrolled at a virtual public charter school.**

26 **(b) All appointments to the task force made under this subsection must be completed by**
27 **July 15, 2009, and must be based on a list submitted by members of the group that is being**
28 **represented by the member of the task force.**

29 **(c) In addition to the members appointed to the task force as provided by paragraph (a)**
30 **of this subsection, the task force may invite additional individuals to attend the meetings of**
31 **the task force. Individuals attending meetings under this paragraph are nonvoting members**
32 **and may act in an advisory capacity only.**

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

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

35 **(A) Academic and operational issues involved in providing comprehensive online educa-**
36 **tion in the state's system of kindergarten through grade 12 public education, including pro-**
37 **viding online education through virtual public charter schools. Academic and operational**
38 **issues include providing quality online education, ensuring accountability of online education,**
39 **establishing the governance of online education and ensuring student access to online edu-**
40 **cation.**

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

44 **(b) Prepare any necessary legislation based on the findings made in the report described**
45 **in paragraph (a) of this subsection.**

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (12) The Legislative Administrator shall provide staff support to the task force. To the
31 extent practicable, the task force shall use contributions of funds and any other assistance
32 provided by public and private sources for the purposes of the task force.

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

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

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

40 SECTION 17. Notwithstanding any other provision of this chapter, the following morato-
41 rium is imposed:

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

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

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

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

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

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

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

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

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

24 SECTION 18. Section 17 of this 2009 Act is repealed on March 1, 2010.

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