

A-Engrossed
House Bill 3688

Ordered by the House February 12
Including House Amendments dated February 12

Sponsored by COMMITTEE ON EDUCATION

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.

Prohibits provider of educational services from offering money or other consideration to student, parent or legal guardian **of student or another entity for benefit of student, parent or legal guardian** in return for student electing to receive or receiving educational services from specific provider or as promise of payment that provider used as incentive for student to enroll in program.

Takes effect July 1, 2010.

A BILL FOR AN ACT

1
2 Relating to educational services; creating new provisions; amending ORS 338.025 and 338.115; and
3 prescribing an effective date.

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

5 **SECTION 1. (1) As used in this section, "provider of educational services" means a public**
6 **charter school, a district school board or a public or private provider of educational services**
7 **that provides educational services under a contract or the authority of a public charter**
8 **school or district school board.**

9 **(2) A provider of educational services may not offer payment of money or other consid-**
10 **eration to a student, to a parent or legal guardian of a student or to another entity for the**
11 **benefit of a student, parent or legal guardian:**

12 **(a) In return for the student electing to receive or receiving educational services from**
13 **a specific provider of educational services; or**

14 **(b) Following the student's completion of an educational program, if the provider of ed-**
15 **ucational services used the promise of payment as an incentive for the student to enroll in**
16 **the program.**

17 **(3) The restrictions of subsection (2) of this section do not apply to:**

18 **(a) Money or other consideration that is provided as required or allowed by law;**

19 **(b) Money or other consideration that is provided for the purpose of enabling the student**
20 **to access the Internet;**

21 **(c) Goods and services that are provided for use by a student and that are directly related**
22 **to the educational program of the provider of educational services; or**

23 **(d) Goods and services that are available to all students receiving educational services**
24 **from the provider of educational services.**

25 **SECTION 2. ORS 338.115 is amended to read:**

26 **338.115. (1) Statutes and rules that apply to school district boards, school districts or other**

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 public schools do not apply to public charter schools. However, the following laws do apply to public
2 charter schools:

3 (a) Federal law;

4 (b) ORS 192.410 to 192.505 (public records law);

5 (c) ORS 192.610 to 192.690 (public meetings law);

6 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

7 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

8 (f) ORS 337.150 (textbooks);

9 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

10 (h) ORS 659.850, 659.855 and 659.860 (discrimination);

11 (i) ORS 30.260 to 30.300 (tort claims);

12 (j) Health and safety statutes and rules;

13 (k) Any statute or rule that is listed in the charter;

14 (L) The statewide assessment system developed by the Department of Education for mathemat-
15 ics, science and English under ORS 329.485 (2);

16 (m) ORS 329.045 (academic content standards and instruction);

17 (n) Any statute or rule that establishes requirements for instructional time provided by a school
18 during each day or during a year;

19 (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

20 (p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on pre-
21 vention and identification of child abuse);

22 (q) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
23 tificate);

24 (r) ORS chapter 657 (Employment Department Law);

25 (s) ORS 339.326; *[and]*

26 **(t) Section 1 of this 2010 Act (consideration for educational services); and**

27 *[(t)] (u) This chapter.*

28 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
29 that apply to school district boards, school districts and other public schools may apply to a public
30 charter school.

31 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
32 “public school” include public charter school as those terms are used in that statute or rule.

33 (4) A public charter school may not violate the Establishment Clause of the First Amendment
34 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
35 based.

36 (5) A public charter school shall maintain an active enrollment of at least 25 students.

37 (6) A public charter school may sue or be sued as a separate legal entity.

38 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
39 and employees of a sponsor acting in their official capacities are immune from civil liability with
40 respect to all activities related to a public charter school within the scope of their duties or em-
41 ployment.

42 (8) A public charter school may enter into contracts and may lease facilities and services from
43 a school district, education service district, state institution of higher education, other governmental
44 unit or any person or legal entity.

45 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-

1 ability.

2 (10) A public charter school may receive and accept gifts, grants and donations from any source
3 for expenditure to carry out the lawful functions of the school.

4 (11) The school district in which the public charter school is located shall offer a high school
5 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
6 school student who meets the district's and state's standards for a high school diploma, a modified
7 diploma, an extended diploma or an alternative certificate.

8 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
9 issued by a public charter school grants to the holder the same rights and privileges as a high
10 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
11 nonchartered public school.

12 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
13 sponsor as specified in the charter.

14 (14) A public charter school may receive services from an education service district in the same
15 manner as a nonchartered public school in the school district in which the public charter school is
16 located.

17 **SECTION 3.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12,
18 chapter 50, Oregon Laws 2008, and section 4, chapter 618, Oregon Laws 2009, is amended to read:

19 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
20 public schools do not apply to public charter schools. However, the following laws do apply to public
21 charter schools:

22 (a) Federal law;

23 (b) ORS 192.410 to 192.505 (public records law);

24 (c) ORS 192.610 to 192.690 (public meetings law);

25 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

26 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

27 (f) ORS 337.150 (textbooks);

28 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

29 (h) ORS 659.850, 659.855 and 659.860 (discrimination);

30 (i) ORS 30.260 to 30.300 (tort claims);

31 (j) Health and safety statutes and rules;

32 (k) Any statute or rule that is listed in the charter;

33 (L) The statewide assessment system developed by the Department of Education for mathemat-
34 ics, science and English under ORS 329.485 (2);

35 (m) ORS 329.045 (academic content standards and instruction);

36 (n) ORS 329.496 (physical education);

37 (o) Any statute or rule that establishes requirements for instructional time provided by a school
38 during each day or during a year;

39 (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

40 (q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on pre-
41 vention and identification of child abuse);

42 (r) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
43 tificate);

44 (s) ORS chapter 657 (Employment Department Law);

45 (t) ORS 339.326; [and]

1 **(u) Section 1 of this 2010 Act (consideration for educational services); and**

2 [(u)] (v) This chapter.

3 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
4 that apply to school district boards, school districts and other public schools may apply to a public
5 charter school.

6 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
7 “public school” include public charter school as those terms are used in that statute or rule.

8 (4) A public charter school may not violate the Establishment Clause of the First Amendment
9 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
10 based.

11 (5) A public charter school shall maintain an active enrollment of at least 25 students.

12 (6) A public charter school may sue or be sued as a separate legal entity.

13 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
14 and employees of a sponsor acting in their official capacities are immune from civil liability with
15 respect to all activities related to a public charter school within the scope of their duties or em-
16 ployment.

17 (8) A public charter school may enter into contracts and may lease facilities and services from
18 a school district, education service district, state institution of higher education, other governmental
19 unit or any person or legal entity.

20 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
21 ability.

22 (10) A public charter school may receive and accept gifts, grants and donations from any source
23 for expenditure to carry out the lawful functions of the school.

24 (11) The school district in which the public charter school is located shall offer a high school
25 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
26 school student who meets the district’s and state’s standards for a high school diploma, a modified
27 diploma, an extended diploma or an alternative certificate.

28 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
29 issued by a public charter school grants to the holder the same rights and privileges as a high
30 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
31 nonchartered public school.

32 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
33 sponsor as specified in the charter.

34 (14) A public charter school may receive services from an education service district in the same
35 manner as a nonchartered public school in the school district in which the public charter school is
36 located.

37 **SECTION 4.** ORS 338.025 is amended to read:

38 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
39 of this chapter. The rules shall follow the intent of this chapter.

40 (2) Upon application by a public charter school, the State Board of Education may grant a
41 waiver of any provision of this chapter if the waiver promotes the development of programs by
42 providers, enhances the equitable access by underserved families to the public education of their
43 choice, extends the equitable access to public support by all students or permits high quality pro-
44 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
45 chapter or any provision under ORS 338.115 (1)(a) to [(s)] (t).

1 **SECTION 5.** ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, and section
2 14, chapter 50, Oregon Laws 2008, is amended to read:

3 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
4 of this chapter. The rules shall follow the intent of this chapter.

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

11 **SECTION 6. This 2010 Act takes effect on July 1, 2010.**
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