

# House Bill 2028

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Superintendent of Public Instruction Susan Castillo for Department of 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 **as introduced**.

Allows sponsor of public charter school to terminate charter for failure of school to have audit prepared or failure of school to forward other information to sponsor.

Requires school district that is sponsor of public charter school to forward public charter school annual audit to Department of Education as part of audit report for school district. Allows department to withhold payments to school district from State School Fund until audit is provided.

Allows sponsor to terminate charter for failure to maintain sound financial management system for any period of time. Allows sponsor and public charter school to agree to develop plan to correct deficiencies if school fails to maintain financial stability or fails to maintain sound financial management system.

Allows school district board to consider prior history of applicant for public charter school when evaluating proposal for public charter school.

## A BILL FOR AN ACT

1  
2 Relating to public charter schools; amending ORS 327.137, 338.055, 338.095 and 338.105.

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

4 **SECTION 1.** ORS 338.095 is amended to read:

5 338.095. (1) A public charter school shall report to the sponsor and the State Board of Education  
6 at least annually on the performance of the school and its students. A public charter school shall  
7 disclose in its report information necessary to make a determination of compliance with the re-  
8 quirements of this chapter. The sponsor or the sponsor's designee at least annually shall visit the  
9 public charter school site and review the public charter school's compliance with the terms and  
10 provisions of the charter.

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

15 [(a)] (A) A copy of the annual audit;

16 [(b)] (B) Any statements from the public charter school that show the results of all operations  
17 and transactions affecting the financial status of the public charter school during the preceding  
18 annual audit period for the school; and

19 [(c)] (C) A balance sheet containing a summary of the assets and liabilities of the public charter  
20 school as of the closing date of the preceding annual audit period for the school.

21 (b) **Failure to have an audit prepared or failure to forward information as required by**  
22 **this subsection may be grounds for termination of a charter under ORS 338.105.**

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

**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.

**SECTION 2.** ORS 327.137 is amended to read:

327.137. (1)(a) Every common or union high school district shall file a copy of its audit report with the Department of Education within six months of the end of the fiscal year for which the audit is required. **The audit report shall include:**

**(A) Information necessary for the computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360, 327.731, 328.542 and 530.115 and this section; and**

**(B) If the school district is a sponsor of any public charter schools, a copy of each annual audit forwarded to the district as required by ORS 338.095 (2)(a)(A).**

(b) If the audit report, as submitted to the district, fails to provide the detail necessary for the computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360, 327.731, 328.542 and 530.115 and this section, the district shall submit the necessary information on forms provided by the department within the time prescribed for filing the audit in this section.

**(c) If the audit report fails to include a public charter school annual audit as required by paragraph (a)(B) of this subsection, the Superintendent of Public Instruction may:**

**(A) Withhold any payments from the State School Fund for the public charter school that, pursuant to ORS 338.155, are due under ORS 327.095 to the district; and**

**(B) Allow payments to be made from the State School Fund to the district upon receipt of the annual audit or upon the meeting of any other conditions identified by rule of the State Board of Education.**

(d) Any district failing to file a copy of *[its]* **an audit** report under this section or **a report under** ORS 327.133 *[shall]* **may** not receive any payments from the State School Fund until *[such reports are]* **the report is** filed.

(2) Notwithstanding the timeline provided by this section and pursuant to rules adopted by the State Board of Education, the superintendent *[of Public Instruction]* may waive a reporting date or specify an alternative date to provide the audit report or information if a human-created disaster or a natural disaster affects the ability of a district to provide the audit report or information by a specified date.

**SECTION 3.** ORS 327.137, as amended by section 15, chapter 846, Oregon Laws 2007, and section 7, chapter 184, Oregon Laws 2009, is amended to read:

327.137. (1)(a) Every common or union high school district shall file a copy of its audit report with the Department of Education within six months of the end of the fiscal year for which the audit is required. **The audit report shall include:**

**(A) Information necessary for the computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.731, 328.542 and 530.115 and this section; and**

**(B) If the school district is a sponsor of any public charter schools, a copy of each annual audit forwarded to the district as required by ORS 338.095 (2)(a)(A).**

(b) If the audit report, as submitted to the district, fails to provide the detail necessary for the computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.731, 328.542 and 530.115 and this section, the district shall submit the necessary information on forms provided by the department within the time prescribed for filing the audit in this section.

**(c) If the audit report fails to include a public charter school annual audit as required by paragraph (a)(B) of this subsection, the Superintendent of Public Instruction may:**

**(A) Withhold any payments from the State School Fund for the public charter school**

1 that, pursuant to ORS 338.155, are due under ORS 327.095 to the district; and

2 (B) Allow payments to be made from the State School Fund to the district upon receipt  
 3 of the annual audit or upon the meeting of any other conditions identified by rule of the  
 4 State Board of Education.

5 (d) Any district failing to file a copy of [its] **an audit** report under this section or **a report**  
 6 **under** ORS 327.133 [shall] **may** not receive any payments from the State School Fund until [such  
 7 reports are] **the report is** filed.

8 (2) Notwithstanding the timeline provided by this section and pursuant to rules adopted by the  
 9 State Board of Education, the superintendent [of Public Instruction] may waive a reporting date or  
 10 specify an alternative date to provide the audit report or information if a human-created disaster  
 11 or a natural disaster affects the ability of a district to provide the audit report or information by  
 12 a specified date.

13 **SECTION 4.** ORS 338.105, as amended by section 12, chapter 691, Oregon Laws 2009, is  
 14 amended to read:

15 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the  
 16 following grounds:

- 17 (a) Failure to meet the terms of an approved charter or this chapter.
- 18 (b) Failure to meet the requirements for student performance stated in the charter.
- 19 (c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.
- 20 (d) Failure to maintain insurance as described in the charter.
- 21 (e) Failure to maintain financial stability.
- 22 (f) Failure to maintain[, for two or more consecutive years,] a sound financial management system  
 23 described in the proposal submitted under ORS 338.045 and incorporated into the written charter  
 24 under ORS 338.065.

25 **(g) Failure to have an audit prepared or failure to forward information as required under**  
 26 **ORS 338.095 (2).**

27 (2)(a) If a charter is terminated under subsection (1) of this section, the sponsor shall notify the  
 28 public charter school governing body at least 60 days prior to the proposed effective date of the  
 29 termination. The notice shall state the grounds for the termination.

30 **(b) If the grounds for termination include failure to maintain financial stability or failure**  
 31 **to maintain a sound financial management system, the sponsor and the public charter school**  
 32 **may agree to develop a plan to correct deficiencies. Under a plan to correct deficiencies:**

33 **(A) The public charter school may attempt to correct any deficiencies related to financial**  
 34 **stability or a sound financial management system by a date identified by the sponsor, which**  
 35 **may not be less than 60 days from the date of the notice;**

36 **(B) The proposed effective date of the termination may be extended to the date identified**  
 37 **under subparagraph (A) of this paragraph;**

38 **(C) The sponsor may withhold up to 50 percent of the moneys owed to the public charter**  
 39 **school while the public charter school is on the plan unless the withholding would create an**  
 40 **undue hardship, as determined pursuant to rules of the State Board of Education; and**

41 **(D) The sponsor must hold in trust any moneys withheld under subparagraph (C) of this**  
 42 **paragraph until:**

43 **(i) The public charter school complies with the plan to correct deficiencies, at which time**  
 44 **the public charter school is entitled to the moneys held in trust; or**

45 **(ii) The public charter school fails to comply with the plan to correct deficiencies, at**

1 **which time the charter is terminated and the public charter school forfeits any claim to the**  
 2 **moneys held in trust.**

3 **(c) A deadline to correct deficiencies under paragraph (b)(A) of this subsection may be**  
 4 **extended by mutual agreement of the sponsor and the public charter school.**

5 **(d) The public charter school governing body may request a hearing by the sponsor in relation**  
 6 **to a termination or a plan to correct deficiencies.**

7 (3) A public charter school governing body may appeal any decision of a sponsor *[that is]* **re-**  
 8 **lated to a termination or a plan to correct deficiencies to:**

9 (a) *[A school district board to]* The State Board of Education, **if the sponsor is a school district**  
 10 **board.** The State Board of Education shall adopt by rule procedures to ensure a timely appeals  
 11 process to prevent disruption of students' education.

12 (b) *[The State Board of Education to]* The circuit court pursuant to ORS 183.484, **if the sponsor**  
 13 **is the State Board of Education.**

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

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

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

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

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

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

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

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

38 338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school  
 39 district board shall hold a public hearing on the provisions of the proposal.

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

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

44 (b) The demonstrated financial stability of the public charter school, including the demonstrated  
 45 ability of the school to have a sound financial management system in place at the time the school

1 begins operating;

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

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

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

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

11 (g) Whether there are arrangements for any necessary special education and related services for  
12 children with disabilities pursuant to ORS 338.165; *[and]*

13 (h) Whether there are alternative arrangements for students and for teachers and other school  
14 employees who choose not to attend or who choose not to be employed by the public charter  
15 school[.]; **and**

16 (i) **The prior history, if any, of the applicant in operating a public charter school or in**  
17 **providing educational services.**

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

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

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

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

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

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

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