

# House Bill 2276

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim 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 **as introduced**.

Prohibits school district or public charter school from advancing student beyond third grade if student is not reading at or above third grade level. Requires that written notice be provided to parent or guardian. Allows waiver under specified circumstances.

Increases age limitation for persons whom school districts must admit free of charge.

Takes effect July 1, 2012.

## A BILL FOR AN ACT

1  
2 Relating to student grade advancement; creating new provisions; amending ORS 339.115; and pre-  
3 scribing an effective date.

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

5 **SECTION 1. (1) Except as provided in subsection (5) of this section, a school district or**  
6 **public charter school may not advance a student beyond the third grade if the student is not**  
7 **reading at or above the third grade level. The school district or public charter school shall**  
8 **determine a student's reading grade level based on the use of an assessment system identi-**  
9 **fied by the State Board of Education by rule. A school district or public charter school may**  
10 **deny the advancement of a student as provided by this section for only one school year.**

11 (2)(a) No later than six months prior to the end of a school year, a school district or  
12 public charter school shall give written notice to the parent or guardian of a student in the  
13 third grade who is not able to read at or above the third grade level.

14 (b) To the extent practicable, a school district or public charter school shall provide  
15 written notice to the parent or guardian of a student in the second grade who shows a strong  
16 likelihood of not being able to read at or above the third grade level by the time the student  
17 completes the third grade.

18 (c) A notice provided under this subsection must:

19 (A) Explain that, for one year, the student will not advance beyond the third grade if the  
20 student is not able to read at or above the third grade level by the beginning of the school  
21 year following the completion of the third grade; and

22 (B) Provide information regarding intervention techniques offered by the school district  
23 or public charter school that the parent or guardian may use to help the student to be able  
24 to read at or above the third grade level.

25 (3) A school district or public charter school must offer intervention techniques to a  
26 student described in subsection (2)(a) or (b) of this section to assist the student in being able  
27 to read at or above the third grade level before the beginning of the school year following  
28 the completion of the third grade. The intervention techniques must comply with guidelines  
29 established by the State Board of Education by rule.

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 (4)(a) If a student was not able to read at or above the third grade level when the student  
 2 completed the third grade:

3 (A) The student shall be given an assessment following the completion of any inter-  
 4 vention techniques offered by the school district or public charter school that are completed  
 5 prior to the beginning of the school year following the completion of the third grade.

6 (B) The parent or guardian of the student may request that the student be given an ad-  
 7 ditional assessment prior to the beginning of the school year following the completion of the  
 8 third grade.

9 (b) If an assessment provided under this subsection indicates that the student can read  
 10 at or above the third grade level and the student otherwise qualifies for advancement beyond  
 11 the third grade, the school district or public charter school shall advance the student.

12 (c) If an assessment provided under this subsection indicates that the student cannot  
 13 read at or above the third grade level, the school district or public charter school may not  
 14 advance the student unless the student already has been denied advancement for one school  
 15 year as provided by this section.

16 (5)(a) A student who is not able to read at or above the third grade level may advance  
 17 beyond the third grade if the student receives a waiver as described in this subsection.

18 (b) A student may receive a waiver from the requirements of this section if:

19 (A) English is not the primary language of the student or the parent or guardian of the  
 20 student;

21 (B) The student has an individualized education program that meets the standards de-  
 22 scribed in ORS 343.151 and that indicates that the student may not be able to read at or  
 23 above the third grade level by the time the student completes the third grade; or

24 (C) The student meets any other criteria established by the State Board of Education by  
 25 rule.

26 (6) The State Board of Education shall establish by rule:

27 (a) Assessment systems to be used to determine a student's reading grade level;

28 (b) Guidelines for the intervention techniques that a school district or public charter  
 29 school must offer to a student who cannot read at or above the third grade level; and

30 (c) Criteria for which the board will grant a waiver of the requirements of this section.

31 **SECTION 2.** Section 1 of this 2011 Act first applies to students who would advance beyond  
 32 the third grade on or after July 1, 2013.

33 **SECTION 3.** ORS 339.115 is amended to read:

34 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the  
 35 regular school program, the district school board shall admit free of charge to the schools of the  
 36 district all persons between the ages of 5 and [19] 20 who reside within the school district. A person  
 37 whose [19th] 20th birthday occurs during the school year shall continue to be eligible for a free and  
 38 appropriate public education for the remainder of the school year. A district school board may admit  
 39 nonresident persons, determine who is not a resident of the district and fix rates of tuition for  
 40 nonresidents.

41 (2)(a) A district must admit an otherwise eligible person who has not yet attained 21 years of  
 42 age prior to the beginning of the current school year if the person is:

43 (A) Receiving special education and has not yet received a high school diploma as described in  
 44 ORS 329.451 (2); or

45 (B) Receiving special education and has received a modified diploma, an extended diploma or

1 an alternative certificate as described in ORS 329.451.

2 (b) A district may admit an otherwise eligible person who is not receiving special education and  
 3 who has not yet attained 21 years of age prior to the beginning of the current school year if the  
 4 person is shown to be in need of additional education in order to receive a high school diploma.

5 (3) The obligation to make a free appropriate public education available to individuals with  
 6 disabilities 18 through 21 years of age who are incarcerated in an adult correctional facility applies  
 7 only to those individuals who, in their last educational placement prior to their incarceration in the  
 8 adult correctional facility:

9 (a) Were identified as being a child with a disability as defined in ORS 343.035; or

10 (b) Had an individualized education program as described in ORS 343.151.

11 (4) For purposes of subsection (3) of this section, "adult correctional facility" means:

12 (a) A local correctional facility as defined in ORS 169.005;

13 (b) A regional correctional facility as defined in ORS 169.620; or

14 (c) A Department of Corrections institution as defined in ORS 421.005.

15 (5) An otherwise eligible person under subsection (2) of this section whose 21st birthday occurs  
 16 during the school year shall continue to be eligible for a free appropriate public education for the  
 17 remainder of the school year.

18 (6) The person may apply to the board of directors of the school district of residence for ad-  
 19 mission after the [19th] **20th** birthday as provided in subsection (1) of this section. A person  
 20 aggrieved by a decision of the local board may appeal to the State Board of Education. The decision  
 21 of the state board is final and not subject to appeal.

22 (7) Notwithstanding ORS 339.133 (1), a school district shall not exclude from admission a child  
 23 located in the district solely because the child does not have a fixed place of residence or solely  
 24 because the child is not under the supervision of a parent, guardian or person in a parental re-  
 25 lationship.

26 (8) Notwithstanding subsection (1) of this section, a school district:

27 (a) May for the remaining period of an expulsion deny admission to the regular school to a  
 28 resident student who is expelled from another school district; and

29 (b) Shall for at least one calendar year from the date of the expulsion and if the expulsion is for  
 30 more than one calendar year, may for the remaining period of time deny admission to the regular  
 31 school program to a student who is under expulsion from another school district for an offense that  
 32 constitutes a violation of a school district policy adopted pursuant to ORS 339.250 (6).

33 (9) A child entering the first grade during the fall term shall be considered to be six years of  
 34 age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten  
 35 during the fall term shall be considered to be five years of age if the fifth birthday of the child oc-  
 36 curs on or before September 1. However, nothing in this section prevents a district school board  
 37 from admitting free of charge a child whose needs for cognitive, social and physical development  
 38 would best be met in the school program, as defined by policies of the district school board, to enter  
 39 school even though the child has not attained the minimum age requirement but is a resident of the  
 40 district.

41 **SECTION 4. This 2011 Act takes effect on July 1, 2012.**