

# House Bill 2287

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**.

Modifies process and requirements for proposal to establish public charter school.

Directs State Board of Education to sponsor public charter school if board finds that school district board is not negotiating in good faith or in timely manner.

Requires initial charter of public charter school to be for term of five years. Requires sponsor to renew charter unless sponsor finds specified reason for termination.

Specifies timeline in which State Board of Education is required to complete review of school district board's disapproval of proposal to establish public charter school.

## A BILL FOR AN ACT

1  
2 Relating to public charter schools; creating new provisions; and amending ORS 338.035, 338.045,  
3 338.055, 338.065, 338.075 and 338.105.

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

5 **SECTION 1.** ORS 338.035 is amended to read:

6 338.035. (1) A public charter school may be established:

7 (a) As a new public school;

8 (b) As a virtual public charter school;

9 (c) From an existing public school or a portion of the school; or

10 (d) From an existing alternative education program, as defined in ORS 336.615.

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

12 (A) Be approved by a sponsor;

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

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

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

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

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

21 (3)(a) An applicant seeking to establish a public charter school shall submit a proposal pursuant  
22 to ORS 338.045 to the school district board of the school district within which the public charter  
23 school will be located [*at least 120 days prior to the date upon which the public charter school would*  
24 *begin operating. However, it is recommended that*] **by the date identified by the school district**  
25 **board. The date must be:**

26 (A) **At least 120 days prior to the date on which the public charter school would begin**  
27 **operating; and**

28 (B) **No more than one year prior to the date on which the public charter school would**

**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 **begin operating.**

2 (b) An applicant **may** consult with the school district board prior to submitting a proposal.

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

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

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

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

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

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

17 **SECTION 2.** ORS 338.045 is amended to read:

18 338.045. (1) An applicant seeking to establish a public charter school shall submit a written  
19 proposal to a school district board.

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

21 (a) The identification of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

38 *[(n) A description of the financial management systems for the public charter school and a plan for  
39 having the financial management systems in place at the time the school begins operating;]*

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

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

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

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

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

4       [(t)] (s) **If the public charter school will involve community groups in the planning and**  
 5 **development process of the public charter school**, information on the manner in which **the**  
 6 community groups may be involved in the planning and development process [*of the public charter*  
 7 *school*];

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

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

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

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

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

15       (A) The alternative arrangements for students who choose not to attend the public charter  
 16 school and for teachers and other school employees who choose not to participate in the public  
 17 charter school; and

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

21       (3) In addition to the requirements of subsection (2) of this section, the school district board  
 22 may require any additional information the board considers relevant to the formation or operation  
 23 of a public charter school. **The additional information required by the school district board**  
 24 **must be:**

25       (a) **Only a clarification of the requirements described in subsection (2) of this section or**  
 26 **other information related to the requirements described in subsection (2) of this section; and**

27       (b) **Approved by the State Board of Education before becoming a requirement for pro-**  
 28 **posals submitted to the school district.**

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

31       (5) School districts, education service districts and other public bodies, as defined in ORS  
 32 174.109, shall make available to the public lists of vacant and unused public buildings and portions  
 33 of buildings that may be suitable for the operation of a public charter school. The lists shall be  
 34 provided to developing or operating public charter schools within 30 days of a written request.  
 35 Nothing in this subsection requires the owner of a building on the list to sell or lease the building  
 36 or any portion of the building to a public charter school or a public charter school governing body.

37       **SECTION 3.** ORS 338.055 is amended to read:

38       338.055. (1)(a) **Upon receipt of a proposal submitted under ORS 338.045, a school district**  
 39 **board shall determine whether the proposal is complete. A proposal is complete if the pro-**  
 40 **posal addresses, at least minimally, each element required by ORS 338.045 (2) and (3).**

41       (b) **The school district board shall notify an applicant within 30 days after receipt of a**  
 42 **proposal if the proposal is not complete and identify the specific elements of the proposal**  
 43 **that are not complete. The school district board shall provide the applicant with a reasonable**  
 44 **opportunity to complete the proposal.**

45       (c) **A proposal may be disapproved if the applicant has received a reasonable opportunity**

1 **to complete the proposal and the applicant does not provide a proposal that is complete.**

2 **(d) If the school district board disapproves a proposal as provided by this subsection, the**  
 3 **applicant may appeal the decision to the State Board of Education. The State Board of Edu-**  
 4 **cation shall review the proposal only for completeness and may determine that the proposal**  
 5 **is:**

6 **(A) Not complete and uphold the decision of the school district board; or**

7 **(B) Complete and remand the proposal to the school district board for reconsideration.**

8 [(1)] **(2)** Within 60 days [of] **after** receipt of a **completed** proposal [submitted under ORS  
 9 338.045], the school district board shall hold a public hearing on the provisions of the proposal.

10 [(2)] **(3)** The school district board shall evaluate a proposal in good faith using the following  
 11 criteria:

12 [(a) *The demonstrated, sustainable support for the public charter school by teachers, parents, stu-*  
 13 *dents and other community members, including comments received at the public hearing held under*  
 14 *subsection (1) of this section;*]

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

18 [(c)] **(b)** The capability of the applicant, in terms of support and planning, to provide compre-  
 19 hensive instructional programs to students pursuant to an approved proposal;

20 [(d)] **(c)** The capability of the applicant, in terms of support and planning, to specifically provide,  
 21 pursuant to an approved proposal, comprehensive instructional programs to students identified by  
 22 the applicant as academically low achieving;

23 [(e)] **(d)** The [extent to which the proposal addresses the information required in ORS 338.045]  
 24 **adequacy of the information provided as required by ORS 338.045 (2) and (3);**

25 [(f)] **(e)** Whether the value of the public charter school is outweighed by any [*directly identifi-*  
 26 *able, significant and adverse*] impact on the quality of the public education of students residing in  
 27 the school district in which the public charter school will be located, **and whether the impact is:**

28 **(A) Directly identifiable;**

29 **(B) Significant; and**

30 **(C) Adverse in a manner that is not related to any resulting loss of State School Fund**  
 31 **moneys to the school district;**

32 [(g)] **(f)** Whether there are arrangements for any necessary special education and related ser-  
 33 vices for children with disabilities pursuant to ORS 338.165; and

34 [(h)] **(g)** Whether there are alternative arrangements for students and for teachers and other  
 35 school employees who choose not to attend or who choose not to be employed by the public charter  
 36 school.

37 [(3)] **(4)** The school district board must approve a proposal or state in writing the reasons for  
 38 disapproving a proposal within 30 days after the public hearing held under subsection [(1)] **(2)** of this  
 39 section.

40 [(4)] **(5)(a)** Written notice of the school district board's action shall be sent to the applicant. If  
 41 the proposal is not approved[,];

42 **(A)** The reasons for the denial and suggested remedial measures, if any, shall be clearly stated  
 43 in the notice sent by the school district board to the applicant. *If the proposal is not approved;*  
 44 **and**

45 **(B)** The applicant may amend the proposal to address objections and any suggested remedial

1 measures and resubmit the proposal to the school district board.

2 (b) The school district board shall approve or disapprove the resubmitted proposal within 20  
 3 days after receiving it. **The school district board may disapprove a resubmitted proposal only**  
 4 **for a reason stated in the notice sent as provided by paragraph (a)(A) of this subsection.** If  
 5 the proposal is not approved, the applicant may appeal the decision of the school district board to  
 6 the State Board of Education.

7 [(5)] (6) Individual elements in a public charter school proposal may be changed through the  
 8 proposal and chartering process.

9 [(6)] (7) A proposal to convert an existing public school to a public charter school must be ap-  
 10 proved by the school district board of the public school.

11 [(7)] (8) The school district board or the State Board of Education shall not charge any fee to  
 12 applicants for the proposal process.

13 [(8)] (9) Upon request by a school district, the State Board of Education may grant an extension  
 14 of any timeline required by this section if the district has good cause for requesting the extension.

15 **SECTION 4. The amendments to ORS 338.035, 338.045 and 338.055 by sections 1 to 3 of this**  
 16 **2011 Act apply to proposals to establish a public charter school submitted on or after the**  
 17 **effective date of this 2011 Act.**

18 **SECTION 5.** ORS 338.065 is amended to read:

19 338.065. (1)(a) Upon approval of a proposal by a school district board under ORS 338.055, the  
 20 school district board shall become the sponsor of the public charter school.

21 (b) The sponsor and applicant shall develop a written charter that contains the provisions of the  
 22 proposal that have been duly approved by the sponsor and public charter school governing body.  
 23 The sponsor and the applicant may agree to change elements of the proposal prior to incorporating  
 24 them into the charter or exclude elements of the proposal from the charter.

25 (c) **If an applicant believes that a school district board is not negotiating in good faith**  
 26 **or in a timely manner, the applicant may appeal to the State Board of Education, which shall**  
 27 **review the claim. If the State Board of Education finds that the school district board is not**  
 28 **negotiating in good faith or in a timely manner, the State Board of Education shall become**  
 29 **the sponsor of the school.**

30 (d) The charter, when duly executed by the sponsor and the public charter school governing  
 31 body, shall act as the legal authorization for the establishment of the public charter school. The  
 32 charter shall be legally binding on both the sponsor and the public charter school governing body.

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

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

37 (b) The first renewal of a charter shall be for *[the same time period as the initial charter]* **five**  
 38 **years.**

39 (c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed  
 40 10 years. **The sponsor shall renew the charter unless the sponsor finds cause for termination**  
 41 **of the charter as provided by ORS 338.105.**

42 [(4)(a) *The renewal of a charter shall use the process required by this section.*]

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

45 [(c) *Within 45 days after receiving a written renewal request from a public charter school governing*

1 *body, the sponsor shall hold a public hearing regarding the request for renewal.]*

2 *[(d) Within 10 days after the public hearing, the sponsor shall notify the public charter school*  
3 *governing body of the sponsor's intent about the renewal of the charter.]*

4 *[(e) Within 20 days after the public hearing, the sponsor shall approve the renewal of the charter*  
5 *or state in writing the reasons for denying the renewal of the charter.]*

6 *[(f) If the sponsor approves the renewal of the charter, the sponsor and the public charter school*  
7 *governing body shall negotiate a new charter within 90 days after the date on which the sponsor ap-*  
8 *proved the renewal of the charter unless the sponsor and the public charter school governing body*  
9 *agree to an extension of the time period.]*

10 *[(g) If the sponsor does not renew the charter, the public charter school governing body may ad-*  
11 *dress the reasons stated under paragraph (e) of this subsection and any remedial measures suggested*  
12 *by the sponsor and submit a revised request for renewal to the sponsor.]*

13 *[(h) Notwithstanding paragraphs (b) to (g) of this subsection, a sponsor and a public charter school*  
14 *governing body may agree in the charter of the school to a timeline for renewing the charter that is*  
15 *different from the timeline required by paragraphs (b) to (g) of this subsection.]*

16 *[(5)(a) If the sponsor does not renew the charter based on the revised request for renewal submitted*  
17 *under subsection (4)(g) of this section, the public charter school governing body may appeal the decision*  
18 *of the sponsor to the State Board of Education for a review of whether the sponsor used the process*  
19 *required by this section in denying the renewal of the charter.]*

20 *[(b) If the board finds that the sponsor used the process required by this section in denying the*  
21 *request for renewal, the board shall affirm the decision of the sponsor. A public charter school gov-*  
22 *erning body may seek judicial review of an order of the board pursuant to ORS 183.484.]*

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

25 *[(d) If after reconsideration pursuant to paragraph (c) of this subsection the sponsor does not renew*  
26 *the charter, the public charter school governing body may seek judicial review of an order of the*  
27 *sponsor pursuant to ORS 183.484.]*

28 *[(e) If the board is the sponsor of a public charter school and the board does not renew the charter*  
29 *based on the revised request for renewal submitted under subsection (4)(g) of this section, the public*  
30 *charter school governing body may seek judicial review of an order of the board pursuant to ORS*  
31 *183.484 for a review of whether the board used the process required by this section in denying the re-*  
32 *quest for renewal.]*

33 *[(6)(a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether*  
34 *the public charter school:]*

35 *[(A) Is in compliance with this chapter and all other applicable state and federal laws;]*

36 *[(B) Is in compliance with the charter of the public charter school;]*

37 *[(C) Is meeting or working toward meeting the student performance goals and agreements specified*  
38 *in the charter or any other written agreements between the sponsor and the public charter school gov-*  
39 *erning body;]*

40 *[(D) Is fiscally stable and has used the sound financial management system described in the pro-*  
41 *posal submitted under ORS 338.045 and incorporated into the written charter under this section; and]*

42 *[(E) Is in compliance with any renewal criteria specified in the charter of the public charter*  
43 *school.]*

44 *[(b) The sponsor shall base the renewal evaluation described in paragraph (a) of this subsection*  
45 *primarily on a review of the public charter school's annual performance reports, annual audit of ac-*

1 counts and annual site visit and review as required by ORS 338.095 and any other information mutu-  
2 ally agreed upon by the public charter school governing body and the sponsor.]

3 **SECTION 6. The amendments to ORS 338.065 by section 5 of this 2011 Act apply to:**

4 (1) Negotiations related to public charter schools occurring on or after the effective date  
5 of this 2011 Act; and

6 (2) Charters for public charter schools entered into or renewed on or after the effective  
7 date of this 2011 Act.

8 **SECTION 7.** ORS 338.075 is amended to read:

9 338.075. (1) If a school district board [*does not approve a proposal to start*] **disapproves a pro-**  
10 **posals to establish** a public charter school pursuant to ORS 338.055, the applicant may request that  
11 the State Board of Education review the decision of the school district board. **The State Board of**  
12 **Education shall complete the review within 90 days of receiving the request.**

13 (2) Upon receipt of a request for review, the State Board of Education:

14 (a) Shall attempt to mediate a resolution between the applicant and the school district board.

15 (b) May recommend to the applicant and school district board revisions to the proposal.

16 (c) If the school district board does not accept the revisions to the proposal and the applicant  
17 agrees to the sponsorship, may become the sponsor of the public charter school.

18 (3) Upon receipt of a request for review, in addition to actions described in subsection (2) of this  
19 section and at any time during the review process, the State Board of Education may reject a pro-  
20 posal to [*start*] **establish** a public charter school if the school fails to meet the requirements of this  
21 chapter.

22 (4) An applicant may seek judicial review of an order of the State Board of Education pursuant  
23 to ORS 183.484. If the court finds that the decision of the State Board of Education is not supported  
24 by substantial evidence in the record, the court shall enter a judgment directing the State Board  
25 of Education to sponsor the public charter school.

26 **SECTION 8. The amendments to ORS 338.075 by section 7 of this 2011 Act apply to re-**  
27 **views submitted on or after the effective date of this 2011 Act.**

28 **SECTION 9.** ORS 338.105, as amended by section 12, chapter 691, Oregon Laws 2009, is  
29 amended to read:

30 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the  
31 following grounds:

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

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

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

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

36 (e) Failure to maintain financial stability.

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

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

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

45 (a) A school district board to the State Board of Education. The State Board of Education shall

1 adopt by rule procedures to ensure a timely appeals process to prevent disruption of students' edu-  
 2 cation.

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

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

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

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

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

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

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

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

27