

House Bill 2651

Sponsored by Representatives GELSER, HUNT; Representative NOLAN (Presession filed.)

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**.

Establishes requirement that school must be in school district that has ADMw of more than 150 to qualify as remote small elementary school or small high school. Allows school to qualify as remote small elementary school or small high school after merger between school districts if merged school district has ADMw of more than 150.

Excludes from calculation of local revenues any property tax amounts that are received by school district to fund school that otherwise would have qualified as remote small elementary school or small high school if district had ADMw of more than 150.

Declares emergency, effective July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to small schools; creating new provisions; amending ORS 327.011 and 327.077; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 327.077 is amended to read:

6 327.077. (1) For purposes of this section:

7 (a) The "adjusted average daily membership" or "ADMa" for an elementary school is the aver-
8 age daily membership for the school, but no less than 25.

9 (b) The "adjusted average daily membership" or "ADMa" for a high school is the average daily
10 membership for the school, but no less than 60.

11 [(2) A school may qualify as a remote small elementary school if the average daily membership in
12 grades one through eight for an elementary school teaching:]

13 [(a) Eight grades is below 224.]

14 [(b) Seven grades is below 196.]

15 [(c) Six grades is below 168.]

16 [(d) Five grades is below 140.]

17 [(e) Four grades is below 112.]

18 [(f) Three grades is below 84.]

19 [(g) Two grades is below 56.]

20 [(h) One grade is below 28.]

21 [(3) A school may qualify as a small high school if:]

22 [(a) The school is in a school district that has an ADMw of less than 8,500; and]

23 [(b) The average daily membership in grades 9 through 12 for a high school teaching:]

24 [(A) Four grades is below 350.]

25 [(B) Three grades is below 267.]

26 [(4) An elementary school does not qualify as a remote small elementary school under subsection
27 (2) of this section if it is within eight miles by the nearest traveled road from another elementary school
28 unless there are physiographic conditions that make transportation to another school not feasible.]

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 (2) A school providing education in a grade or any combination of grades from grades one
 2 through eight may qualify as a remote small elementary school if the school:

3 (a) Is eight miles or more by the nearest traveled road from another elementary school
 4 or if physiographic conditions make transportation to another elementary school infeasible;

5 (b) Is in a school district that has an ADMw of more than 150; and

6 (c) Has an average daily membership below:

7 (A) 224, if eight grades are taught at the school;

8 (B) 196, if seven grades are taught at the school;

9 (C) 168, if six grades are taught at the school;

10 (D) 140, if five grades are taught at the school;

11 (E) 112, if four grades are taught at the school;

12 (F) 84, if three grades are taught at the school;

13 (G) 56, if two grades are taught at the school; or

14 (H) 28, if one grade is taught at the school.

15 (3) A school providing education in grades 9 through 12 or grades 10 through 12 may
 16 qualify as a small high school if the school:

17 (a) Is in a school district that has an ADMw of more than 150 and less than 8,500; and

18 (b) Has an average daily membership below:

19 (A) 350, if four grades are taught at the school; or

20 (B) 267, if three grades are taught at the school.

21 [(5)(a)] (4)(a) If an elementary school in a school district qualifies as a remote small elementary
 22 school, the district shall have an additional amount added to the district's ADMw.

23 (b) The additional amount = $\{224 - (\text{ADM}_a \div (\text{number of grades in the school} \div \text{eight}))\} \times$
 24 $0.0045 \times \text{ADM}_a \times \text{distance adjustment}$.

25 [(6)(a)] (5)(a) If a high school in a district qualifies as a small high school, the district shall have
 26 an additional amount added to the district's ADMw.

27 (b) The additional amount = $\{350 - (\text{ADM}_a \div (\text{number of grades in the school} \div \text{four}))\} \times$
 28 $0.0029 \times \text{ADM}_a$.

29 [(7)] (6) The distance adjustment for an elementary school = 0.025 for each 10th of a mile more
 30 than eight miles that a school is away from the nearest elementary school measured by the nearest
 31 traveled road or 1.0, whichever is less.

32 [(8)(a)] (7)(a) A school may qualify as a remote small elementary school under this section only
 33 if the location of the school has not changed since January 1, 1995, and if:

34 (A) The school qualified as a remote small elementary school on [July 18, 1995.] the effective
 35 date of this 2011 Act; or

36 (B) The school is in a school district that:

37 (i) Merged with another school district;

38 (ii) Did not have an ADMw of more than 150 prior to the merger; and

39 (iii) Has an ADMw of more than 150 after the merger.

40 (b) A school may qualify as a small high school under this section only if:

41 (A) The location of the school has not changed since January 1, 1995;

42 (B) The school qualified as a small high school on [July 23, 2009] the effective date of this 2011

43 Act or the school is in a school district that:

44 (i) Merged with another school district;

45 (ii) Did not have an ADMw of more than 150 prior to the merger; and

1 **(iii) Has an ADMw of more than 150 after the merger;** and

2 (C) On or after October 23, 1999, and prior to July 23, 2009, the school was not part of a high
3 school that divided or otherwise reorganized into two or more high schools in the same city.

4 (c) A public charter school as defined in ORS 338.005 may qualify as a remote small elementary
5 school under this section only if the location of the school has not changed since January 1, 1995,
6 and if the school qualified as a nonchartered public remote small **elementary** school on July 18,
7 1995.

8 (d) A public charter school as defined in ORS 338.005 may qualify as a small high school under
9 this section only if the location of the school has not changed since January 1, 1995, and if the
10 school qualified as a nonchartered public remote small **elementary** school on July 18, 1995.

11 (e) The Superintendent of Public Instruction may waive the requirements of paragraph (a), (b),
12 (c) or (d) of this subsection if the superintendent determines that exceptional circumstances exist.

13 (f) An alternative education program as defined in ORS 336.615 may not qualify as a small high
14 school under this section.

15 [(9)] **(8)** The opening of a public charter school shall not disqualify a school as a remote small
16 elementary school under subsection [(4)] **(2)** of this section or change the distance adjustment for a
17 school under subsection [(7)] **(6)** of this section.

18 [(10)(a)] **(9)(a)** Notwithstanding subsections [(2), (4), (5) and (8)(a) and (c)] **(2), (4) and (7)(a) and**
19 **(c)** of this section, if two elementary schools merge and prior to the merger at least one of the el-
20 elementary schools qualified as a remote small elementary school under this section, the Department
21 of Education shall continue to add an additional amount pursuant to subsection [(5)] **(4)** of this
22 section to the ADMw of the school district in which the new merged elementary school is located.
23 The amount added under this subsection shall equal the additional amount that each of the former
24 remote small elementary schools would have received under this section for the remote small ele-
25 elementary school based on the ADMa of each of the elementary schools prior to the merger.

26 (b) This subsection applies only to elementary schools located in counties with a population of
27 less than 2,000 and a total area of not more than 1,000 square miles.

28 [(11)(a)] **(10)(a)** Notwithstanding subsections [(3), (6) and (8)(b) and (d)] **(3), (5) and (7)(b) and**
29 **(d)** of this section, if two high schools merge and prior to the merger at least one of the high schools
30 qualified as a small high school under this section, the Department of Education shall continue to
31 add an additional amount pursuant to subsection [(6)] **(5)** of this section to the ADMw of the school
32 district in which the new merged high school is located that is equal to the higher of:

33 (A) The additional amount the school district of each of the former small high schools would
34 have received under this section for the small high school based on the ADMa of each of the high
35 schools prior to the merger; or

36 (B) In the case of a high school that remains qualified as a small high school under subsection
37 (3) of this section after a merger, the ADMa of the merged small high school.

38 (b) The department shall add the additional amount under this subsection only for the first four
39 fiscal years after the merger of the two high schools is final. If the merger of the two high schools
40 becomes final on or before September 1, for purposes of this paragraph the merger shall be consid-
41 ered final in the prior fiscal year.

42 **SECTION 2.** ORS 327.077, as amended by section 7, chapter 705, Oregon Laws 2009, is amended
43 to read:

44 327.077. (1) For purposes of this section:

45 (a) The “adjusted average daily membership” or “ADMa” for an elementary school is the aver-

1 age daily membership for the school, but no less than 25.

2 (b) The “adjusted average daily membership” or “ADMa” for a high school is the average daily
3 membership for the school, but no less than 60.

4 [(2) *A school may qualify as a remote small elementary school if the average daily membership in*
5 *grades one through eight for an elementary school teaching:]*

6 [(a) *Eight grades is below 224.*]

7 [(b) *Seven grades is below 196.*]

8 [(c) *Six grades is below 168.*]

9 [(d) *Five grades is below 140.*]

10 [(e) *Four grades is below 112.*]

11 [(f) *Three grades is below 84.*]

12 [(g) *Two grades is below 56.*]

13 [(h) *One grade is below 28.*]

14 [(3) *A school may qualify as a small high school if:]*

15 [(a) *The school is in a school district that has an ADMw of less than 8,500; and]*

16 [(b) *The average daily membership in grades 9 through 12 for a high school teaching:]*

17 [(A) *Four grades is below 350.*]

18 [(B) *Three grades is below 267.*]

19 [(4) *An elementary school does not qualify as a remote small elementary school under subsection*
20 *(2) of this section if it is within eight miles by the nearest traveled road from another elementary school*
21 *unless there are physiographic conditions that make transportation to another school not feasible.]*

22 **(2) A school providing education in a grade or any combination of grades from grades one**
23 **through eight may qualify as a remote small elementary school if the school:**

24 **(a) Is eight miles or more by the nearest traveled road from another elementary school**
25 **or if physiographic conditions make transportation to another elementary school infeasible;**

26 **(b) Is in a school district that has an ADMw of more than 150; and**

27 **(c) Has an average daily membership below:**

28 **(A) 224, if eight grades are taught at the school;**

29 **(B) 196, if seven grades are taught at the school;**

30 **(C) 168, if six grades are taught at the school;**

31 **(D) 140, if five grades are taught at the school;**

32 **(E) 112, if four grades are taught at the school;**

33 **(F) 84, if three grades are taught at the school;**

34 **(G) 56, if two grades are taught at the school; or**

35 **(H) 28, if one grade is taught at the school.**

36 **(3) A school providing education in grades 9 through 12 or grades 10 through 12 may**
37 **qualify as a small high school if the school:**

38 **(a) Is in a school district that has an ADMw of more than 150 and less than 8,500; and**

39 **(b) Has an average daily membership below:**

40 **(A) 350, if four grades are taught at the school; or**

41 **(B) 267, if three grades are taught at the school.**

42 [(5)(a)] **(4)(a)** If an elementary school in a school district qualifies as a remote small elementary
43 school, the district shall have an additional amount added to the district’s ADMw.

44 (b) The additional amount = {224 - (ADMa ÷ (number of grades in the school ÷ eight))} ×
45 0.0045 × ADMa × distance adjustment.

1 [(6)(a)] **(5)(a)** If a high school in a district qualifies as a small high school, the district shall have
 2 an additional amount added to the district's ADMw.

3 (b) The additional amount = {350 - (ADMa ÷ (number of grades in the school ÷ four))} ×
 4 0.0029 × ADMa.

5 [(7)] **(6)** The distance adjustment for an elementary school = 0.025 for each 10th of a mile more
 6 than eight miles that a school is away from the nearest elementary school measured by the nearest
 7 traveled road or 1.0, whichever is less.

8 [(8)(a)] **(7)(a)** A school may qualify as a remote small elementary school under this section only
 9 if the location of the school has not changed since January 1, 1995, and if:

10 **(A)** The school qualified as a remote small **elementary** school on [July 18, 1995.] **the effective**
 11 **date of this 2011 Act; or**

12 **(B) The school is in a school district that:**

13 **(i) Merged with another school district;**

14 **(ii) Did not have an ADMw of more than 150 prior to the merger; and**

15 **(iii) Has an ADMw of more than 150 after the merger.**

16 (b) A school may qualify as a small high school under this section only if:

17 (A) The location of the school has not changed since January 1, 1995;

18 (B) The school qualified as a small high school on [July 23, 2009] **the effective date of this 2011**
 19 **Act or the school is in a school district that:**

20 **(i) Merged with another school district;**

21 **(ii) Did not have an ADMw of more than 150 prior to the merger; and**

22 **(iii) Has an ADMw of more than 150 after the merger; and**

23 (C) On or after October 23, 1999, and prior to July 23, 2009, the school was not part of a high
 24 school that divided or otherwise reorganized into two or more high schools in the same city.

25 (c) A public charter school as defined in ORS 338.005 may qualify as a remote small elementary
 26 school under this section only if the location of the school has not changed since January 1, 1995,
 27 and if the school qualified as a nonchartered public remote small **elementary** school on July 18,
 28 1995.

29 (d) A public charter school as defined in ORS 338.005 may qualify as a small high school under
 30 this section only if the location of the school has not changed since January 1, 1995, and if the
 31 school qualified as a nonchartered public remote small **elementary** school on July 18, 1995.

32 (e) The Superintendent of Public Instruction may waive the requirements of paragraph (a), (b),
 33 (c) or (d) of this subsection if the superintendent determines that exceptional circumstances exist.

34 (f) An alternative education program as defined in ORS 336.615 may not qualify as a small high
 35 school under this section.

36 [(9)] **(8)** The opening of a public charter school shall not disqualify a school as a remote small
 37 elementary school under subsection [(4)] **(2)** of this section or change the distance adjustment for a
 38 school under subsection [(7)] **(6)** of this section.

39 [(10)(a)] **(9)(a)** Notwithstanding subsections [(3), (6) and (8)(b) and (d)] **(3), (5) and (7)(b) and (d)**
 40 of this section, if two high schools merge and prior to the merger at least one of the high schools
 41 qualified as a small high school under this section, the Department of Education shall continue to
 42 add an additional amount pursuant to subsection [(6)] **(5)** of this section to the ADMw of the school
 43 district in which the new merged high school is located that is equal to the higher of:

44 (A) The additional amount the school district of each of the former small high schools would
 45 have received under this section for the small high school based on the ADMa of each of the high

1 schools prior to the merger; or

2 (B) In the case of a high school that remains qualified as a small high school under subsection
3 (3) of this section after a merger, the ADMa of the merged small high school.

4 (b) The department shall add the additional amount under this subsection only for the first four
5 fiscal years after the merger of the two high schools is final. If the merger of the two high schools
6 becomes final on or before September 1, for purposes of this paragraph the merger shall be consid-
7 ered final in the prior fiscal year.

8 **SECTION 3.** ORS 327.011 is amended to read:

9 327.011. For the purpose of State School Fund distributions for school districts:

10 (1) Local Revenues are the total of the following:

11 (a) The amount of revenue offset against local property taxes as determined by the Department
12 of Revenue under ORS 311.175 (3)(a)(A).

13 (b) The amount of property taxes actually received by the district, including penalties and in-
14 terest on taxes.

15 (c) The amount of revenue received by the district from the Common School Fund under ORS
16 327.403 to 327.410.

17 (d) The amount of revenue received by the district from the county school fund.

18 (e) The amount of revenue received by the district from the 25 percent of federal forest reserve
19 revenues required to be distributed to schools by ORS 294.060 (1).

20 (f) The amount of revenue received by the district from state managed forestlands under ORS
21 530.115 (1)(b) and (c).

22 (g) Moneys received in lieu of property taxes.

23 (h) Federal funds received without specific application by the school district and that are not
24 deemed under federal law to be nonsupplantable.

25 (i) Any positive amount obtained by subtracting the operating property taxes actually imposed
26 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would
27 have been imposed by the district if the district had certified the maximum rate of operating prop-
28 erty taxes allowed by law.

29 (j) Any amount distributed to the district in the prior fiscal year under ORS 327.019 (8).

30 (2) Local Revenues do not include:

31 (a) If a school district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount
32 equal to the lesser of:

33 (A) The amount of revenue actually received by the district from local option taxes imposed
34 pursuant to ORS 280.040 to 280.145;

35 (B) Twenty percent of the total received by the school district from the general purpose grant,
36 the transportation grant, the facility grant and the high cost disabilities grant of the district, as
37 those grants are calculated under ORS 327.013; or

38 (C) \$1,000 per district extended ADMw, as calculated under ORS 327.013, increased each fiscal
39 year by three percent above the amount allowed per district extended ADMw for the prior fiscal
40 year.

41 (b) For a school district with a statutory rate limit on July 1, 2003, that is greater than \$4.50
42 per \$1,000 of assessed value, the amount of property taxes actually received by the district, includ-
43 ing penalties and interest on taxes, that results from an increase in the rate of ad valorem property
44 tax of the district allowed under section 11 (5)(d), Article XI of the Oregon Constitution.

45 **(c) The lesser of the following amounts:**

1 **(A) The amount of property taxes actually received by the district, including penalties**
2 **and interest on taxes, that results from an increase in the rate of ad valorem property tax**
3 **of the district allowed under sections 11 and 11b, Article XI of the Oregon Constitution, when**
4 **the increase is made for the purpose of funding a public school that otherwise would have**
5 **qualified under ORS 327.077 as a remote small elementary school or a small high school if**
6 **the district had an ADMw of more than 150; or**

7 **(B) The amount the district would have received for a public school that otherwise would**
8 **have qualified under ORS 327.077 as a remote small elementary school or a small high school**
9 **if the district had an ADMw of more than 150.**

10 **SECTION 4.** **The amendments to ORS 327.011 and 327.077 by sections 1 to 3 of this 2011**
11 **Act apply to State School Fund distributions commencing with the 2011-2012 distributions.**

12 **SECTION 5.** **This 2011 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
14 **July 1, 2011.**