

Enrolled
House Bill 3417

Sponsored by Representative HUNT (at the request of Oregon City School District)

CHAPTER

AN ACT

Relating to finances of public charter schools; creating new provisions; amending ORS 327.013, 338.045, 338.055, 338.095, 338.120 and 338.155; and declaring an emergency.

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

SECTION 1. ORS 338.095 is amended to read:

338.095. (1) The financial management system of a public charter school must include a budget and accounting system that:

(a) Is compatible with the budget and accounting system of the sponsor of the school; and

(b) Complies with the requirements of the uniform budget and accounting system adopted by rule of the State Board of Education under ORS 327.511.

~~[(1)]~~ **(2)** A public charter school shall report to the sponsor and the State Board of Education at least annually on the performance of the school and its students. A public charter school shall disclose in its report information necessary to make a determination of compliance with the requirements of this chapter. The sponsor or the sponsor's designee at least annually shall visit the public charter school site and review the public charter school's compliance with the terms and provisions of the charter.

~~[(2)]~~ **(3)** The public charter school shall have an annual audit of the accounts of the public charter school prepared in accordance with the Municipal Audit Law, ORS 297.405 to 297.555 and 297.990. After an audit, the following shall be forwarded to the sponsor, the State Board of Education and the Department of Education:

(a) A copy of the annual audit;

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

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

~~[(3)]~~ **(4)** The State Board of Education may require public charter schools to file reports with the Department of Education as necessary to enable the department to gather information on public charter schools for inclusion in the Oregon Report Card issued pursuant to ORS 329.115.

SECTION 2. ORS 338.120, as amended by section 1, chapter 72, Oregon Laws 2010, is amended to read:

338.120. (1) In addition to any other requirements of this chapter for a public charter school, a virtual public charter school must have:

(a) A plan for academic achievement that addresses how the school will improve student learning and meet academic content standards required by ORS 329.045.

(b) Performance criteria the school will use to measure the progress of the school in meeting the academic performance goals set by the school for its first five years of operation.

(c) A plan for implementing the proposed education program of the school by directly and significantly involving parents and guardians of students enrolled in the school and involving the professional employees of the school.

(d) A budget, business plan and governance plan for the operation of the school. [*The budget and accounting system of the school must be compatible with the budget and accounting system of the sponsor of the virtual public charter school and must comply with the requirements of the uniform budget and accounting system adopted by rule of the State Board of Education under ORS 327.511.*]

(e) In the charter of the school, a requirement that the school:

(A) Monitor and track student progress and attendance; and

(B) Provide student assessments in a manner that ensures that an individual student is being assessed and that the assessment is valid.

(f) Notwithstanding ORS 338.135 (7), a plan to ensure that:

(A) All superintendents, assistant superintendents and principals of the school are licensed to administer by the Teacher Standards and Practices Commission; and

(B) All teachers of the school are licensed to teach by the Teacher Standards and Practices Commission and are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425).

(g) A plan for maintaining student records and school records, including financial records, at a designated central office of operations that is located:

(A) If the sponsor is a school district, within the school district that is the sponsor and as specified in the charter of the school; or

(B) If the sponsor is the State Board of Education, at a central office located in Oregon and as specified in the charter of the school.

(h) A plan to provide equitable access to the education program of the school by ensuring that each student enrolled in the school:

(A) Has access to and use of computer and printer equipment as needed;

(B) Is offered an Internet service cost reimbursement arrangement under which the school reimburses the parent or guardian of the student, at a rate set by the school, for the costs of obtaining Internet service at the minimum connection speed required to effectively access the education program provided by the school; or

(C) Has access to and use of computer and printer equipment and is offered Internet service cost reimbursement.

(i) A plan to provide access to computer and printer equipment and the Internet service cost reimbursement as described in paragraph (h) of this subsection by students enrolled in the school who are from families that qualify as low-income under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(j) A plan to conduct school-sponsored optional educational events at least six times each school year at locations selected to provide convenient access to all students enrolled in the school who want to participate.

(k) A plan to conduct meetings at least twice a week between teachers and students enrolled in the school, either in person or through the use of conference calls or other technology.

(L) A plan to provide opportunities for face-to-face meetings between teachers and students enrolled in the school at least six times each school year.

(m) A plan to provide, at the time of a student's enrollment, written notice to the student's resident school district and to the sponsor. Notification must be provided within 10 days after enrollment and must include:

(A) The name, age and address of the student; and

(B) The name of the school in which the student was formerly enrolled.

(n) A plan to provide, at the time of a student's withdrawal, written notice to the student's resident school district and to the sponsor. Notification must be provided within 10 days after withdrawal and must include:

(A) The name, age and address of the student;

(B) The name of the school in which the student will enroll, if known to the virtual public charter school; and

(C) The last day on which the student was enrolled at the virtual public charter school.

(o) An agreement to provide a student's education records to the student's resident school district or to the sponsor, upon request of the resident school district or sponsor.

(2) If a virtual public charter school enters into a contract with a third-party entity to provide educational services for the virtual public charter school, the virtual public charter school must have on file the third-party entity's budget for the provision of educational services and that budget must itemize:

(a) The salaries of supervisory and management personnel and consultants who are providing educational or related services for a public charter school in this state; and

(b) The annual operating expenses and profit margin of the third-party entity for providing educational services to a public charter school in this state.

(3)(a) The sponsor or a member of the public may request access to any of the documents described in subsections (1) and (2) of this section that are public records, as provided by ORS 192.410 to 192.505.

(b) Upon request by a sponsor or a member of the public, a virtual public charter school must provide reasonable access to the documents described in subsections (1) and (2) of this section that are public records, as provided by ORS 192.410 to 192.505. The documents may be provided electronically.

SECTION 3. The amendments to ORS 338.095 and 338.120 by sections 1 and 2 of this 2011 Act become operative on January 1, 2012.

SECTION 4. ORS 338.045 is amended to read:

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

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

(a) The identification of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

(n) A description of the financial management [*systems*] **system** for the public charter school, **an explanation of how the financial management system will meet the requirements of ORS 338.095 (1)** and a plan for having the financial management [*systems*] **system** in place at the time the school begins operating;

(o) The standards for behavior and the procedures for the discipline, suspension or expulsion of students;

(p) The proposed school calendar for the public charter school, including the length of the school day and school year;

(q) A description of the proposed staff members and required qualifications of teachers at the public charter school;

(r) The date upon which the public charter school would begin operating;

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

(t) Information on the manner in which community groups may be involved in the planning and development process of the public charter school;

(u) The term of the charter;

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

(w) A proposed plan for the placement of public charter school teachers, other school employees and students of the public charter school upon termination or nonrenewal of a charter;

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

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

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

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

(3) In addition to the requirements of subsection (2) of this section, the school district board may require any additional information the board considers relevant to the formation or operation of a public charter school.

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

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

SECTION 5. ORS 338.055 is amended to read:

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

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

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

(b) The demonstrated financial stability of the public charter school, including the demonstrated ability of the school to have a sound financial management system **that is** in place at the time the school begins operating **and that meets the requirements of ORS 338.095 (1)**;

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. The amendments to ORS 338.045 and 338.055 by sections 4 and 5 of this 2011 Act become operative on January 1, 2012, and apply to proposals submitted on or after January 1, 2012.

SECTION 7. ORS 338.155 is amended to read:

338.155. (1)(a) Students of a public charter school shall be considered to be residents of the school district in which the public charter school is located for purposes of distribution of the State School Fund.

(b)(A) For the purpose of determining the amounts to be distributed from the State School Fund to a school district in which a public charter school is located, the district extended ADMw described in ORS 327.013 shall be determined by:

(i) Separately calculating the extended ADMw for students at the public charter school and the extended ADMw for students at nonchartered public schools in the school district; and

(ii) Adding the extended ADMw for students at the public charter school and the extended ADMw for students at nonchartered public schools in the school district.

(B) Except as provided in subparagraph (A) of this paragraph:

(i) All other calculations made under ORS 327.013 shall be made as though the students enrolled at a public charter school were students enrolled at the public schools in the school district in which the public charter school is located; and

(ii) All references to the district extended ADMw shall be based on the calculation made under subparagraph (A)(ii) of this paragraph.

(C) All amounts to be distributed from the State School Fund to public charter schools shall first be distributed to the school district in which the public charter school is located.

(2) A school district shall contractually establish, with any public charter school that is sponsored by the board of the school district, payment for provision of educational services to the public charter school's students. The payment shall equal an amount per weighted average daily membership (ADMw) of the public charter school that is at least equal to:

(a) Eighty percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and

(b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

(3) A school district shall contractually establish, with any public charter school that is sponsored by the State Board of Education and within the boundaries of the school district, payment for provision of educational services to the public charter school's students. The payment shall equal an amount per weighted average daily membership (ADMw) of the public charter school that is at least equal to:

(a) Ninety percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and

(b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

(4) The estimated amount of each school district's General Purpose Grant per ADMw shall be determined each year by the Department of Education and made available to all school districts.

(5) The school district in which the public charter school is located shall transfer an amount per weighted average daily membership (ADMw) of the public charter school that is equal to 50 percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 that is not paid to the public charter school through a contract created pursuant to subsections (2) or (3) of this section to:

(a) Any school district in which the parent or guardian of or person in parental relationship to a student of a public charter school resides pursuant to ORS 339.133 and 339.134; or

(b) The Department of Education if the State Board of Education is the sponsor of the public charter school.

(6) The department may use any money received under this section for activities related to public charter schools.

(7) A school district and a public charter school may negotiate to establish a payment for the provision of educational services to the public charter school's students that is more than the minimum amounts specified in subsection (2) or (3) of this section.

(8) A school district shall send payment to a public charter school based on a contract negotiated under this section within 10 days after receiving payments from the State School Fund pursuant to ORS 327.095.

(9)(a) A public charter school may apply for any grant that is available to school districts or nonchartered public schools from the Department of Education. The department shall consider the application of the public charter school in the same manner as an application from a school district or nonchartered public school.

(b) The department shall award any grant that is available to school districts based solely on the weighted average daily membership (ADMw) of the school district directly to the public charter school. This paragraph does not apply to any grant from the State School Fund.

SECTION 8. ORS 327.013 is amended to read:

327.013. The State School Fund distributions for school districts include the following grants:

(1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.
For the purpose of the calculation made under this subsection:

(a) The funding percentage shall be calculated by the Superintendent of Public Instruction to distribute as nearly as practicable the total sum of money available for distribution.

(b) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor. For the purpose of the calculation made under this paragraph:

(A) Statewide Target per ADMw Grant = \$4,500.

(B) Teacher Experience Factor = $\$25 \times \{\text{District average teacher experience} - \text{statewide average teacher experience}\}$. As used in this subparagraph, "average teacher experience" means the

average, in years, of teaching experience of licensed teachers as reported to the Department of Education.

(c) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater. **The calculation of the district extended ADMw must be made as provided by ORS 338.155 (1)(b) if a public charter school is located in the school district.** For the purpose of this paragraph:

(A) Weighted average daily membership or ADMw = average daily membership + an additional amount computed as follows:

(i) 1.0 for each student in average daily membership eligible for special education as a child with a disability under ORS 343.035, which may not exceed 11 percent of the district's ADM without review and approval by the Department of Education. Children with disabilities eligible for special education in adult local correctional facilities, as defined in ORS 169.005, or adult regional correctional facilities, as defined in ORS 169.620, may not be included in the calculation made under this sub-subparagraph.

(ii) 0.5 for each student in average daily membership eligible for and enrolled in an English as a second language program under ORS 336.079.

(iii) 0.2 for each student in average daily membership enrolled in a union high school district or in an area of a unified school district where the district is only responsible for educating students in grades 9 through 12 in that area.

(iv) -0.1 for each student in average daily membership enrolled in an elementary district operating kindergarten through grade six or kindergarten through grade eight or in an area of a unified school district where the district is only responsible for educating students in kindergarten through grade eight.

(v) 0.25 times the sum of the following:

(I) The number of children 5 to 17 years of age in poverty families in the district, as determined by the Department of Education from a report of the United States Department of Education based on the most recent federal decennial census, as adjusted by the school district's proportion of students in the county receiving free or reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines if the number is higher than the number determined from census data and only if the school district had an average daily membership of 2,500 or less for the 1995-1996 school year, and as further adjusted by the number of students in average daily membership in June of the year of distribution divided by number of students in average daily membership in the district, or its predecessors, in June of the year of the most recent federal decennial census;

(II) The number of children in foster homes in the district as determined by the report of the Department of Human Services to the United States Department of Education, "Annual Statistical Report on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the Poverty Income Level," or its successor, for October 31 of the year prior to the year of distribution; and

(III) The number of children in the district in state-recognized facilities for neglected and delinquent children, based on information from the Department of Human Services for October 31 of the year prior to the year of distribution.

(vi) The amount determined under ORS 327.077 for each remote small elementary school and for each small high school in the district.

(B) All numbers of children used for the computation in this paragraph must reflect any district consolidations that have occurred since the numbers were compiled.

(C) The total additional weight that shall be assigned to any student in average daily membership in a district, exclusive of students described in subparagraph (A)(v) and (vi) of this paragraph, may not exceed 2.0.

(2) High cost disabilities grant = the total amount received by a school district under ORS 327.348 for providing special education and related services to resident pupils with disabilities.

(3)(a) Transportation grant equals:

(A) 70 percent of approved transportation costs for those school districts ranked below the 80th percentile under paragraph (b) of this subsection.

(B) 80 percent of approved transportation costs for those school districts ranked in or above the 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

(C) 90 percent of approved transportation costs for those school districts ranked in or above the 90th percentile under paragraph (b) of this subsection.

(b) Each fiscal year, the Department of Education shall rank school districts based on the approved transportation costs per ADM of each school district, ranking the school district with the highest approved transportation costs per ADM at the top of the order.

(4)(a) Facility Grant = 8 percent of total construction costs of new school buildings.

(b) A school district shall receive a Facility Grant in the distribution year that a new school building is first used.

(c) As used in this subsection:

(A) "New school building" includes new school buildings, structures added onto existing school buildings and premanufactured structures added to a school district if those buildings or structures are to be used for instructing students.

(B) "Construction costs" does not include costs for land acquisition.

SECTION 9. The amendments to ORS 327.013 and 338.155 by sections 7 and 8 of this 2011 Act apply to State School Fund distributions commencing with the 2011-2012 distribution.

SECTION 10. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on July 1, 2011.

Passed by House June 21, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 21, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State