

HOUSE AMENDMENTS TO HOUSE BILL 3645

By JOINT COMMITTEE ON WAYS AND MEANS

June 20

1 On page 1 of the printed bill, after “schools;” delete the rest of the line and line 3 and insert
2 “creating new provisions; and amending ORS 338.005, 338.035, 338.055, 338.065, 338.075, 338.105,
3 338.135 and 338.155.”.

4 Delete lines 5 through 32 and delete pages 2 through 11 and insert:

5 “**SECTION 1.** ORS 338.005 is amended to read:

6 “338.005. As used in this chapter, unless the context requires otherwise:

7 “(1) ‘Applicant’ means any person or group that develops and submits a written proposal for a
8 public charter school to a sponsor.

9 “(2) ‘**Institution of higher education**’ mean a community college operated under ORS
10 chapter 341, an institution of higher education listed in ORS 352.002 or the Oregon Health
11 and Science University.

12 “[2] (3) ‘Public charter school’ means an elementary or secondary school offering a compre-
13 hensive instructional program operating under a written agreement entered into between a sponsor
14 and an applicant and operating pursuant to this chapter.

15 “[3] (4) ‘Remote and necessary school district’ means a school district that offers kindergarten
16 through grade 12 and has:

17 “(a) An average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal year of
18 less than 110; and

19 “(b) A school that is located, by the nearest traveled road, more than 20 miles from the nearest
20 school or from a city with a population of more than 5,000.

21 “[4] (5) ‘Sponsor’ means:

22 “(a) The board of the common school district or the union high school district in which the
23 public charter school is located that has developed a written charter with an applicant to create a
24 public charter school.

25 “(b) The State Board of Education pursuant to ORS 338.075.

26 “(c) **An institution of higher education pursuant to ORS 338.075.**

27 “[5)(a) (6)(a) ‘Virtual public charter school’ means a public charter school that provides online
28 courses.

29 “(b) ‘Virtual public charter school’ does not include a public charter school that primarily serves
30 students in a physical location.

31 “**SECTION 2.** ORS 338.035 is amended to read:

32 “338.035. (1) A public charter school may be established:

33 “(a) As a new public school;

34 “(b) As a virtual public charter school;

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

1 “(d) From an existing alternative education program, as defined in ORS 336.615.
2 “(2)(a) Before a public charter school may operate as a public charter school, it must:
3 “(A) Be approved by a sponsor;
4 “(B) Be established as a nonprofit organization under the laws of Oregon; and
5 “(C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal
6 Revenue Code.
7 “(b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and
8 (C) of this subsection do not apply to:
9 “(A) A school in a school district that is composed of only one school; and
10 “(B) A school in a school district that is a remote and necessary school district on the date the
11 school first begins operation as a public charter school.
12 “(3) An applicant seeking to establish a public charter school shall submit a proposal pursuant
13 to ORS 338.045 to the school district board of the school district within which the public charter
14 school will be located at least 120 days prior to the date upon which the public charter school would
15 begin operating. However, it is recommended that an applicant consult with the school district board
16 prior to submitting a proposal.
17 “(4) An applicant seeking to establish a public charter school shall provide to the State Board
18 of Education a copy of any proposal submitted to a school district board under ORS 338.045 and a
19 copy of any subsequent approval by the school district board.
20 “(5)(a) One or more, but not all, schools in a school district may become public charter schools.
21 “(b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is com-
22 posed of only one school may become a public charter school.
23 “(6)(a) [A school district board or the State Board of Education] **An entity described in ORS**
24 **338.005 (5)** may not approve a public charter school proposal that authorizes the conversion of any
25 private school that is tuition based to a public charter school.
26 “(b) Notwithstanding paragraph (a) of this subsection, [a school district board or the State Board
27 of Education] **an entity described in ORS 338.005 (5)** may authorize the conversion of an existing
28 alternative education program, as defined in ORS 336.615, to a public charter school.
29 “(7) [A school district board or the State Board of Education] **An entity described in ORS**
30 **338.005 (5)** may not approve a public charter school proposal that is affiliated with a nonpublic
31 sectarian school or a religious institution.
32 “**SECTION 3.** ORS 338.055 is amended to read:
33 “338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school
34 district board shall hold a public hearing on the provisions of the proposal.
35 “(2) The school district board shall evaluate a proposal in good faith using the following criteria:
36 “(a) The demonstrated, sustainable support for the public charter school by teachers, parents,
37 students and other community members, including comments received at the public hearing held
38 under subsection (1) of this section;
39 “(b) The demonstrated financial stability of the public charter school, including the demon-
40 strated ability of the school to have a sound financial management system in place at the time the
41 school begins operating;
42 “(c) The capability of the applicant, in terms of support and planning, to provide comprehensive
43 instructional programs to students pursuant to an approved proposal;
44 “(d) The capability of the applicant, in terms of support and planning, to specifically provide,
45 pursuant to an approved proposal, comprehensive instructional programs to students identified by

1 the applicant as academically low achieving;

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

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

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

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

10 “(3) The school district board must approve a proposal or state in writing the reasons for dis-
11 approving a proposal within 30 days after the public hearing held under subsection (1) of this sec-
12 tion.

13 “(4) Written notice of the school district board’s action shall be sent to the applicant. If the
14 proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall
15 be clearly stated in the notice sent by the school district board to the applicant. If the proposal is
16 not approved, the applicant may amend the proposal to address objections and any suggested reme-
17 dial measures and resubmit the proposal to the school district board. The school district board shall
18 approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is
19 not approved, the applicant may:

20 “(a) Appeal the decision of the school district board to the State Board of Education[.] **as**
21 **provided by ORS 338.075; or**

22 “(b) **Submit a proposal to an institution of higher education as provided by ORS 338.075.**

23 “(5) Individual elements in a public charter school proposal may be changed through the pro-
24 posal and chartering process.

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

27 “(7) [*The school district board or the State Board of Education shall*] **Entities described in ORS**
28 **338.005 (5) may not charge any fee to applicants for the proposal process.**

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

31 “**SECTION 4.** ORS 338.065 is amended to read:

32 “338.065. (1)(a) Upon approval of a proposal by a school district board under ORS 338.055, the
33 school district board shall become the sponsor of the public charter school.

34 “(b) **Pursuant to ORS 338.075 (2) or (4), the State Board of Education shall become the**
35 **sponsor of the public charter school.**

36 “(c) **Pursuant to ORS 338.075 (5), the institution of higher education shall become the**
37 **sponsor of the public charter school.**

38 “(2) The sponsor and **the** applicant shall develop a written charter that contains the provisions
39 of the proposal that have been duly approved by the sponsor and public charter school governing
40 body. The sponsor and the applicant may agree to change elements of the proposal prior to incor-
41 porating them into the charter or exclude elements of the proposal from the charter. The charter,
42 when duly executed by the sponsor and the public charter school governing body, shall act as the
43 legal authorization for the establishment of the public charter school. The charter shall be legally
44 binding on both the sponsor and the public charter school governing body.

45 “[2] (3) The sponsor and the public charter school governing body may amend a charter by

1 joint agreement.

2 “[3)(a)] (4)(a) The initial charter shall be in effect for a period of not more than five years and
3 shall be renewed upon the authorization of the sponsor using the process established under this
4 section.

5 “(b) The first renewal of a charter shall be for the same time period as the initial charter.

6 “(c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed
7 10 years.

8 “[4)(a)] (5)(a) The renewal of a charter shall use the process required by this section.

9 “(b) The public charter school governing body shall submit a written renewal request to the
10 sponsor for consideration at least 180 days prior to the expiration of the charter.

11 “(c) Within 45 days after receiving a written renewal request from a public charter school gov-
12 erning body, the sponsor shall hold a public hearing regarding the request for renewal.

13 “(d) Within 10 days after the public hearing, the sponsor shall notify the public charter school
14 governing body of the sponsor’s intent about the renewal of the charter.

15 “(e) Within 20 days after the public hearing, the sponsor shall approve the renewal of the
16 charter or state in writing the reasons for denying the renewal of the charter.

17 “(f) If the sponsor approves the renewal of the charter, the sponsor and the public charter
18 school governing body shall negotiate a new charter within 90 days after the date on which the
19 sponsor approved the renewal of the charter unless the sponsor and the public charter school gov-
20 erning body agree to an extension of the time period.

21 “(g) If the sponsor does not renew the charter, the public charter school governing body may
22 address the reasons stated under paragraph (e) of this subsection and any remedial measures sug-
23 gested by the sponsor and submit a revised request for renewal to the sponsor.

24 “(h) Notwithstanding paragraphs (b) to (g) of this subsection, a sponsor and a public charter
25 school governing body may agree in the charter of the school to a timeline for renewing the charter
26 that is different from the timeline required by paragraphs (b) to (g) of this subsection.

27 “[5)(a)] (6)(a) If the sponsor does not renew the charter based on the revised request for re-
28 newal submitted under subsection [(4)(g)] (5)(g) of this section, the public charter school governing
29 body may appeal the decision of the sponsor to the State Board of Education for a review of whether
30 the sponsor used the process required by this section in denying the renewal of the charter.

31 “(b) If the **state** board finds that the sponsor used the process required by this section in de-
32 nying the request for renewal, the **state** board shall affirm the decision of the sponsor. A public
33 charter school governing body may seek judicial review of an order of the **state** board pursuant to
34 ORS 183.484.

35 “(c) If the **state** board finds that the sponsor did not use the process required by this section
36 in denying the request for renewal, the **state** board shall order the sponsor to reconsider the request
37 for renewal.

38 “(d) If after reconsideration pursuant to paragraph (c) of this subsection the sponsor does not
39 renew the charter, the public charter school governing body may seek judicial review of an order
40 of the sponsor pursuant to ORS 183.484.

41 “[e)] (7) If the **State Board of Education** is the sponsor of a public charter school and the
42 **state** board does not renew the charter based on the revised request for renewal submitted under
43 subsection [(4)(g)] (5)(g) of this section, the public charter school governing body may seek judicial
44 review of an order of the **state** board pursuant to ORS 183.484 for a review of whether the **state**
45 board used the process required by this section in denying the request for renewal.

1 “[(6)(a)] **(8)(a)** The sponsor shall base the charter renewal decision on a good faith evaluation
2 of whether the public charter school:

3 “(A) Is in compliance with this chapter and all other applicable state and federal laws;

4 “(B) Is in compliance with the charter of the public charter school;

5 “(C) Is meeting or working toward meeting the student performance goals and agreements
6 specified in the charter or any other written agreements between the sponsor and the public charter
7 school governing body;

8 “(D) Is fiscally stable and has used the sound financial management system described in the
9 proposal submitted under ORS 338.045 and incorporated into the written charter under this section;
10 and

11 “(E) Is in compliance with any renewal criteria specified in the charter of the public charter
12 school.

13 “(b) The sponsor shall base the renewal evaluation described in paragraph (a) of this subsection
14 primarily on a review of the public charter school’s annual performance reports, annual audit of
15 accounts and annual site visit and review as required by ORS 338.095 and any other information
16 mutually agreed upon by the public charter school governing body and the sponsor.

17 “**SECTION 5. (1) Notwithstanding ORS 338.065, an institution of higher education may not**
18 **become a sponsor of a public charter school that begins operating prior to the 2012-2013**
19 **school year.**

20 “**(2) Nothing in subsection (1) of this section prevents:**

21 “**(a) Institutions of higher education from evaluating and approving proposals to establish**
22 **public charter schools.**

23 “**(b) Public charter schools from taking any actions necessary to begin operating during**
24 **the 2012-2013 school year.**

25 “**SECTION 6.** ORS 338.075 is amended to read:

26 “338.075. (1) If a school district board does not approve a proposal to start a public charter
27 school pursuant to ORS 338.055, the applicant may:

28 “**(a)** Request that the State Board of Education review the decision of the school district
29 board[.]; **or**

30 “**(b) Submit a proposal to an institution of higher education.**

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

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

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

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

36 “(3) Upon receipt of a request for review, in addition to actions described in subsection (2) of
37 this section and at any time during the review process, the State Board of Education may reject a
38 proposal to start a public charter school if the school fails to meet the requirements of this chapter.

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

43 “**(5)(a) An applicant seeking sponsorship by an institution of higher education may submit**
44 **to the institution of higher education the same proposal that was submitted to the school**
45 **district board under ORS 338.045 or a proposal that is modified to take into consideration the**

1 characteristics of the institution of higher education evaluating the proposal under this
2 subsection.

3 “(b) Upon receipt of a proposal, an institution of higher education shall evaluate the
4 proposal in good faith. The institution of higher education shall:

5 “(A) Approve or disapprove the proposal using the criteria described in ORS 338.055 (2)(b)
6 to (h) and approve the proposal only if the institution of higher education may become a
7 sponsor as provided by paragraphs (d) and (e) of this subsection; or

8 “(B) Disapprove the proposal based on the institution’s determination that the proposal
9 does not align with the mission of the institution of higher education.

10 “(c) Within 60 days after receiving a proposal, the institution of higher education must
11 approve the proposal or, if disapproving the proposal, state in writing the reasons for disap-
12 proving the proposal.

13 “(d) An institution of higher education may approve a proposal evaluated under this
14 subsection only if the main campus of the institution of higher education is located within
15 25 miles of the proposed public charter school, based on the nearest traveled road.

16 “(e) An institution of higher education may become a sponsor of only one public charter
17 school in this state, regardless of the number of campuses or locations of the institution of
18 higher education.

19 “(f) If a public charter school has a sponsor that is an institution of higher education and
20 the public charter school enters into a contract with a third-party entity to provide educa-
21 tional services for the public charter school:

22 “(A) A member of the governing body of the public charter school or the governing body
23 of the sponsor may not be an employee of the third-party entity, be a member of the gov-
24 erning board of the third-party entity or be any other representative of the third-party en-
25 tity;

26 “(B) An employee or a member of the governing board of the third-party entity may not
27 attend an executive session of the sponsor;

28 “(C) An employee of the public charter school may not promote the sale or benefits of
29 private supplemental services or classes offered by the third-party entity; and

30 “(D) The educational services provided by the third-party entity must comply with state
31 standards and requirements, and any provision of the contract with the third-party entity
32 that does not allow for the provision of educational services that comply with state standards
33 and requirements is void.

34 “**SECTION 7.** ORS 338.105, as amended by section 12, chapter 691, Oregon Laws 2009, is
35 amended to read:

36 “338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the
37 following grounds:

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

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

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

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

42 “(e) Failure to maintain financial stability.

43 “(f) Failure to maintain, for two or more consecutive years, a sound financial management sys-
44 tem described in the proposal submitted under ORS 338.045 and incorporated into the written char-
45 ter under ORS 338.065.

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

5 “(3) A public charter school governing body may appeal [any] a decision of a sponsor [that is]
6 to:

7 “(a) [A school district board to] The state board [of Education] **if the sponsor is an entity de-**
8 **scribed in ORS 338.005 (5)(a) or (c).** The [State Board of Education] **board** shall adopt by rule
9 procedures to ensure a timely appeals process to prevent disruption of students’ education.

10 “(b) [The State Board of Education to] The circuit court pursuant to ORS 183.484 **if the sponsor**
11 **is the State Board of Education.**

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

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

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

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

24 “(5) Termination of a charter shall not abridge the public charter school’s legal authority to
25 operate as a private or nonchartered public school.

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

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

35 “**SECTION 8.** ORS 338.135 is amended to read:

36 “338.135. (1) Employee assignment to a public charter school shall be voluntary.

37 “(2)(a) A public charter school or the sponsor of the public charter school is considered the
38 employer of any employees of the public charter school. If a school district board is not the sponsor
39 of the public charter school, the school district board may not be the employer of the employees of
40 the public charter school and the school district board may not collectively bargain with the em-
41 ployees of the public charter school. The public charter school governing body shall control the
42 selection of employees at the public charter school.

43 “(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts
44 with a for-profit entity to provide educational services through the virtual public charter school, the
45 for-profit entity may not be the employer of any employees of the virtual public charter school.

1 “(3) The school district board of the school district within which the public charter school is
2 located shall grant a leave of absence to any employee who chooses to work in the public charter
3 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
4 board policy. However, the length of the leave of absence may not be less than two years unless:

5 “(a) The charter of the public charter school is terminated or the public charter school is dis-
6 solved or closed during the leave of absence; or

7 “(b) The employee and the school district board have mutually agreed to a different length of
8 time.

9 “(4) An employee of a public charter school operating within a school district who is granted
10 a leave of absence from the school district and returns to employment with the school district shall
11 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
12 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
13 a public charter school not operating within the school district may make provisions for the return
14 of the employee to employment with the school district.

15 “(5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a
16 public employer and as such shall participate in the Public Employees Retirement System.

17 “(6) For teacher licensing, employment experience in public charter schools shall be considered
18 equivalent to experience in public schools.

19 “(7)(a) Any person employed as an administrator in a public charter school shall be licensed or
20 registered to administer by the Teacher Standards and Practices Commission.

21 “(b) Any person employed as a teacher in a public charter school shall be licensed or registered
22 to teach by the commission.

23 “(c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-
24 time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed
25 by the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

26 “(8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
27 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
28 of a labor organization or organize with other employees to bargain collectively. Bargaining units
29 at the public charter school may be separate from other bargaining units of the sponsor or of the
30 school district in which the public charter school is located. Employees of a public charter school
31 may be part of the bargaining units of the sponsor or of the school district in which the public
32 charter school is located.

33 “(9) *[A school district or the State Board of Education]* **An entity described in ORS 338.005 (5)**
34 may not waive the right to sponsor a public charter school in a collective bargaining agreement.

35 “**SECTION 9.** ORS 338.155 is amended to read:

36 “338.155. (1) Students of a public charter school shall be considered to be residents of the school
37 district in which the public charter school is located for purposes of distribution of the State School
38 Fund.

39 “(2) A school district shall contractually establish, with any public charter school that is spon-
40 sored by the board of the school district, payment for provision of educational services to the public
41 charter school’s students. The payment shall equal an amount per weighted average daily member-
42 ship (ADMw) of the public charter school that is at least equal to:

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

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

3 “(3) A school district shall contractually establish, with any public charter school that is spon-
4 sored by the State Board of Education **or an institution of higher education** and **that is** within
5 the boundaries of the school district, payment for provision of educational services to the public
6 charter school’s students. The payment shall equal an amount per weighted average daily member-
7 ship (ADMw) of the public charter school that is at least equal to:

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

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

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

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

20 “(a) **For a public charter school sponsored by a school district**, any school district in which
21 the parent or guardian of, or person in parental relationship to, a student of a public charter school
22 resides pursuant to ORS 339.133 and 339.134; [or]

23 “(b) **For a public charter school sponsored by the State Board of Education**, the Depart-
24 ment of Education [*if the State Board of Education is the sponsor of the public charter school*]; **or**

25 “(c) **For a public charter school sponsored by an institution of higher education, the in-**
26 **stitution of higher education.**

27 “(6) The department may use any [*money*] **moneys** received under this section for activities re-
28 lated to public charter schools.

29 “(7) A school district and a public charter school may negotiate to establish a payment for the
30 provision of educational services to the public charter school’s students that is more than the min-
31 imum amounts specified in subsection (2) or (3) of this section.

32 “(8) A school district shall send payment to a public charter school based on a contract nego-
33 tiated under this section within 10 days after receiving payments from the State School Fund pur-
34 suant to ORS 327.095.

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

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

42 “**SECTION 10.** ORS 338.055, as amended by section 3 of this 2011 Act, is amended to read:

43 “338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school
44 district board shall hold a public hearing on the provisions of the proposal.

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

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

4 “(b) The demonstrated financial stability of the public charter school, including the demon-
5 strated ability of the school to have a sound financial management system in place at the time the
6 school begins operating;

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

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

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

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

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

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

20 “(3) The school district board must approve a proposal or state in writing the reasons for dis-
21 approving a proposal within 30 days after the public hearing held under subsection (1) of this sec-
22 tion.

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

30 “[a] appeal the decision of the school district board to the State Board of Education. [*as pro-*
31 *vided by ORS 338.075; or]*

32 “[b] *Submit a proposal to an institution of higher education as provided by ORS 338.075.*]

33 “(5) Individual elements in a public charter school proposal may be changed through the pro-
34 posal and chartering process.

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

37 “(7) Entities described in ORS 338.005 (5) may not charge any fee to applicants for the proposal
38 process.

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

41 “**SECTION 11.** ORS 338.075, as amended by section 6 of this 2011 Act, is amended to read:

42 “338.075. (1) If a school district board does not approve a proposal to start a public charter
43 school pursuant to ORS 338.055, the applicant may[:]

44 “[a] request that the State Board of Education review the decision of the school district
45 board. [; or]

1 “(b) *Submit a proposal to an institution of higher education.*]

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

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

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

5 “(c) If the school district board does not accept the revisions to the proposal and the applicant

6 agrees to the sponsorship, may become the sponsor of the public charter school.

7 “(3) Upon receipt of a request for review, in addition to actions described in subsection (2) of

8 this section and at any time during the review process, the State Board of Education may reject a

9 proposal to start a public charter school if the school fails to meet the requirements of this chapter.

10 “(4) An applicant may seek judicial review of an order of the State Board of Education pursuant

11 to ORS 183.484. If the court finds that the decision of the State Board of Education is not supported

12 by substantial evidence in the record, the court shall enter a judgment directing the State Board

13 of Education to sponsor the public charter school.

14 “[(5)(a) *An applicant seeking sponsorship by an institution of higher education may submit to the*

15 *institution of higher education the same proposal that was submitted to the school district board under*

16 *ORS 338.045 or a proposal that is modified to take into consideration the characteristics of the insti-*

17 *tution of higher education evaluating the proposal under this subsection.*]

18 “[(b) *Upon receipt of a proposal, an institution of higher education shall evaluate the proposal in*

19 *good faith. The institution of higher education shall:*]

20 “[(A) *Approve or disapprove the proposal using the criteria described in ORS 338.055 (2)(b) to (h)*

21 *and approve the proposal only if the institution of higher education may become a sponsor as provided*

22 *by paragraphs (d) and (e) of this subsection; or]*

23 “[(B) *Disapprove the proposal based on the institution’s determination that the proposal does not*

24 *align with the mission of the institution of higher education.*]

25 “[(c) *Within 60 days after receiving a proposal, the institution of higher education must approve the*

26 *proposal or, if disapproving the proposal, state in writing the reasons for disapproving the proposal.*]

27 “[(d)] **(5)(a)** An institution of higher education may [approve a proposal evaluated under this

28 subsection] **sponsor a public charter school** only if:

29 “(A) The main campus of the institution of higher education is located within 25 miles of the

30 proposed public charter school, based on the nearest traveled road[.]; **and**

31 “(B) **The institution of higher education first became a sponsor of the public charter**

32 **school prior to July 1, 2017.**

33 “[(e)] **(b)** An institution of higher education may [become a sponsor of] **sponsor** only one public

34 charter school in this state, regardless of the number of campuses or locations of the institution of

35 higher education.

36 “[(f)] **(c)** If a public charter school has a sponsor that is an institution of higher education and

37 the public charter school enters into a contract with a third-party entity to provide educational

38 services for the public charter school:

39 “(A) A member of the governing body of the public charter school or the governing body of the

40 sponsor may not be an employee of the third-party entity, be a member of the governing board of

41 the third-party entity or be any other representative of the third-party entity;

42 “(B) An employee or a member of the governing board of the third-party entity may not attend

43 an executive session of the sponsor;

44 “(C) An employee of the public charter school may not promote the sale or benefits of private

45 supplemental services or classes offered by the third-party entity; and

1 “(D) The educational services provided by the third-party entity must comply with state stan-
2 dards and requirements, and any provision of the contract with the third-party entity that does not
3 allow for the provision of educational services that comply with state standards and requirements
4 is void.

5 “**SECTION 12. (1) The amendments to ORS 338.055 and 338.075 by sections 10 and 11 of**
6 **this 2011 Act become operative on July 1, 2017.**

7 “**(2) Nothing in the amendments to ORS 338.055 and 338.075 by sections 10 and 11 of this**
8 **2011 Act affects the ability of an institution of higher education to continue to sponsor a**
9 **public charter school if the institution of higher education became the sponsor of the public**
10 **charter school prior to July 1, 2017.”.**

11
