

A-Engrossed
Senate Bill 250

Ordered by the Senate March 9
Including Senate Amendments dated March 9

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Education and General Government)

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.

Allows school district to withdraw from education service district **on or after July 1, 2014. Allows withdrawal for school districts in specified education service districts on or after July 1, 2012.** Requires education service district to distribute to school district prorated amount of state funding available to education service district. Allows school district to rejoin education service district.

[Takes effect January 1, 2013.]

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to education service districts; creating new provisions; amending ORS 255.005, 267.380,
3 294.447, 327.019, 327.297, 332.136, 334.003, 334.025, 334.032, 334.032, 334.095, 334.100, 334.125, 334.127,
4 334.175, 334.177, 334.240, 334.730, 334.760, 656.430 and 757.612 and section 15, chapter 828,
5 Oregon Laws 2005; repealing ORS 334.032, 334.035, 334.045, 334.090, 334.095, 334.740 and 334.750
6 and section 5, chapter 59, Oregon Laws 2010; and declaring an emergency.

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

8 **SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made a part of ORS chapter**
9 **334.**

10 **SECTION 2. (1) Notwithstanding ORS 334.010 and 334.020, one or more school districts**
11 **of an education service district may withdraw from the education service district.**

12 **(2)(a) A school district board that is considering whether to withdraw a school district**
13 **from an education service district must:**

14 **(A) Prepare a plan of withdrawal and make the plan available to the public; and**

15 **(B) Hold a public hearing and solicit comments about the plan prepared as provided by**
16 **this paragraph.**

17 **(b) Following the public hearing under paragraph (a) of this subsection, the school dis-**
18 **trict board may determine whether to withdraw the school district from the education ser-**
19 **vice district. The school district board may choose to withdraw by an affirmative vote of**
20 **two-thirds of the members of the board.**

21 **(3)(a) A school district board that chooses to withdraw a school district from the educa-**
22 **tion service district as provided in subsection (2) of this section must submit a plan of**
23 **withdrawal to the board of directors of the education service district and to the school dis-**
24 **trict boards of the component school districts. The plan of withdrawal must describe how the**

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 school district will provide the services described in ORS 334.175 (2) to the students of the
2 school district.

3 (b) A plan of withdrawal described in this subsection must be submitted no later than
4 October 1 of the year prior to the year in which the school district plans to withdraw from
5 the education service district.

6 (c) Within 120 days of receiving the plan of withdrawal, the board of directors of the ed-
7 ucation service district shall issue an order that recognizes the withdrawal of the school
8 district from the education service district.

9 (4) The withdrawal of a school district from an education service district becomes effec-
10 tive on July 1 after an order is issued by the board of directors of the education service
11 district recognizing the withdrawal.

12 **SECTION 3.** (1) Notwithstanding section 2 of this 2011 Act and except as provided in
13 subsection (2) of this section, the board of directors of an education service district may not
14 issue an order recognizing the withdrawal of a school district from the education service
15 district if the withdrawal would become effective prior to July 1, 2014.

16 (2)(a) The board of directors of an education service district composed of a region de-
17 scribed in ORS 334.020 (1)(c), (m) or (p) may issue an order recognizing the withdrawal of a
18 school district from the education service district that becomes effective on or after July 1,
19 2012.

20 (b) If the board of directors of an education service district issues an order recognizing
21 the withdrawal of a school district that becomes effective on July 1, 2012, as allowed under
22 this subsection, the board shall submit a report to the interim legislative committees relat-
23 ing to education prior to October 1, 2012.

24 **SECTION 4.** (1) A school district board that withdrew a school district from an education
25 service district as provided in section 2 of this 2011 Act may choose to rejoin the school
26 district to the education service district.

27 (2) A school district board that chooses to rejoin a school district to an education service
28 district as provided in subsection (1) of this section may rejoin by an affirmative vote of
29 two-thirds of the members of the board. A vote described in this subsection must occur no
30 later than October 1 of the year prior to the year in which the school district board plans
31 to rejoin the school district to the education service district.

32 (3) The school district board shall notify the board of directors of the education service
33 district prior to October 1 of the year prior to the year in which the school district board
34 plans to rejoin the school district to the education service district. Within 60 days of re-
35 ceiving the notice, the board of directors of the education service district shall issue an order
36 that recognizes the rejoining of a school district to the education service district.

37 (4) The rejoining of a school district to an education service district becomes effective
38 on July 1 after the board of directors of the education service district issues the order de-
39 scribed in subsection (3) of this section.

40 **SECTION 5.** ORS 334.003 is amended to read:

41 334.003. For purposes of this chapter:

42 (1) "Component school district" means a common school district or a union high school district
43 that:

44 (a) Is located within the territory of an education service district[.]; and

45 (b) Is not withdrawn from the education service district as provided in section 2 of this

1 **2011 Act.**

2 (2) "Education service district" means a district created under ORS 334.010 that provides re-
3 gional educational services to component school districts.

4 (3) "Joint school district" means a common school district or a union high school district located
5 within the territory of more than one education service district.

6 **SECTION 6.** ORS 334.025 is amended to read:

7 334.025. (1)(a) The board of directors of an education service district shall consist of [*seven, nine*
8 *or 11 members*] **five, seven or nine members.**

9 **(b) The members of the board shall be elected from among the superintendents of the**
10 **component school districts by the superintendents of the component school districts.**

11 **(c) The board of directors may by resolution increase or decrease the number of mem-**
12 **bers of the board. The board's resolution shall have no effect on the terms of any current**
13 **board members.**

14 [*(2) In education service districts, not fewer than five of the directors shall be elected, one from*
15 *each of the zones established under ORS 334.032. At the discretion of the board of directors, one or two*
16 *board members may be elected from the district at large.*]

17 [(3)] **(2)** On the petition of two component school districts, the board shall establish local advi-
18 sory committees to represent the interests of areas within the petitioning districts. The local advi-
19 sory committees shall advise the board on matters of concern within the advisory committee's area.
20 Local advisory committees shall represent two or more component school districts.

21 [(4) *The board of directors may by resolution increase or decrease the number of members of the*
22 *board. The board's resolution shall be entered with sufficient time for the board to give the required*
23 *information to the elections officer under ORS 255.069, and the board's resolution shall have no effect*
24 *on the terms of any current board members.*]

25 **SECTION 7.** ORS 334.032 is amended to read:

26 334.032. (1) The board of directors of an education service district shall divide the education
27 service district into not more than 11 zones as nearly equal in census population as may be practi-
28 cable, measured along common school district boundary lines except that zones may be established
29 using voting precinct boundaries in order to achieve greater equality of population. If possible, the
30 board shall establish the zones so that each county within the education service district, the ma-
31 jority of the land area of which lies within the boundaries of the education service district, has at
32 least one member on the board.

33 (2) Each county within the education service district, the majority of the land area of which lies
34 within the boundaries of the education service district, shall have at least one member on the board
35 or shall have at least one member on the budget committee of the education service district.

36 (3) The board may readjust the boundaries of the zones once each year and shall readjust the
37 boundaries of the zones immediately upon:

38 (a) Any change of the boundaries of the education service district[.];

39 **(b) The withdrawing of a school district as provided in section 2 of this 2011 Act; or**

40 **(c) The rejoining of a school district as provided in section 4 of this 2011 Act.**

41 **SECTION 8.** ORS 334.095 is amended to read:

42 334.095. (1) The education service district board shall declare the office of director vacant upon
43 the happening of any of the following:

44 (a) When an incumbent dies or resigns;

45 (b) When an incumbent is removed from office or the election thereto has been declared void

1 by the judgment of any court;

2 (c) When an incumbent ceases to be a resident of **a school district that is a component school**
3 **district of** the education service district;

4 (d) Subject to the provision of subsection (2) of this section, when an incumbent ceases to be a
5 resident of the zone from which nominated;

6 (e) When an incumbent ceases to discharge the duties of office for two consecutive months un-
7 less prevented therefrom by sickness or other unavoidable cause; or

8 (f) When an incumbent is recalled.

9 (2) A director nominated from a zone who changes permanent residence from one zone to an-
10 other zone in which another director resides shall continue to serve as director until the next reg-
11 ular election when a successor shall be elected to serve for the remainder of the unexpired term.

12 (3) A director guilty of misfeasance or malfeasance in office, by the appropriate proceeding, may
13 be removed from office by a court of competent jurisdiction.

14 (4) Members may be recalled in the manner provided in ORS 249.865 to 249.877. If the member
15 was elected by a zone, the recall petition shall be signed by electors from that zone and electors
16 from the zone are the only electors eligible to vote in the recall election. If the member was elected
17 at large, the recall petition shall be signed by electors from the district and electors from the dis-
18 trict are eligible to vote in the recall election.

19 **SECTION 9.** ORS 334.100 is amended to read:

20 334.100. (1) Each **year, the** education service district board shall meet during July and organize
21 by electing one of its members chairperson and one vice chairperson[, *each of whom shall serve until*
22 *a successor is elected and qualified*]. No member shall serve as chairperson for more than two years
23 in succession.

24 (2) Regular meetings of an education service district board shall be held on meeting dates de-
25 termined by the board. Special meetings may be held on dates to be determined by the board.

26 (3) Members of the education service district board shall receive no compensation for their
27 services, but shall be reimbursed for all traveling and other expenses necessarily incurred in per-
28 forming their duties as members of the board.

29 (4) A majority of the members of the education service district board shall constitute a quorum.
30 A lesser number may meet and adjourn from time to time and compel the presence of absent mem-
31 bers. The affirmative vote of a majority of members of the board is required to transact any busi-
32 ness.

33 (5) Any duty imposed upon the education service district board as a body must be performed at
34 a regular or special meeting and must be made a matter of record. The consent to any particular
35 measure obtained of individual members when the board is not in session is not an act of the board
36 and is not binding upon the district.

37 **SECTION 10.** ORS 334.125 is amended to read:

38 334.125. (1) The education service district is a body corporate.

39 (2) The education service district board is authorized to transact all business coming within the
40 jurisdiction of the education service district and may sue and be sued.

41 (3) The education service district board shall perform all duties required by law, including but
42 not limited to:

43 (a) Distribution of such school funds as it is empowered to apportion;

44 (b) Conduct of audits;

45 (c) Duties as district boundary board;

1 (d) Budget and tax levying duties, including the levying of taxes under ORS 280.060;

2 (e) Contracting a bonded indebtedness and levying direct ad valorem taxes on all taxable prop-
3 erty within the education service district in the manner that component school districts are au-
4 thorized to issue bonds and levy taxes under ORS 328.205 to 328.304 and other laws applicable to
5 the issuance of bonds and levying of taxes by school districts; and

6 (f) Creating a county education bond district under ORS 328.304 from a county within the dis-
7 trict.

8 (4)(a) In addition to its duties under subsection (3) of this section, an education service district
9 board:

10 (A) May provide services required by the local service plan developed pursuant to ORS 334.175
11 [and];

12 (B) **Except as provided by subparagraph (C) of this paragraph**, may provide funds to a
13 component school [districts] **district** to provide services required by the local **service** plan in lieu
14 of [those school districts] **the component school district** receiving services from the education
15 service district[.];

16 (C) **Shall provide funds in the manner described in paragraph (b) of this subsection to a**
17 **component school district to provide services required by the local service plan in lieu of the**
18 **component school district receiving services from the education service district if:**

19 (i) **The school district received funds under subparagraph (B) of this paragraph for the**
20 **2010-2011 fiscal year; and**

21 (ii) **The school district requests that the funds be provided as required by this subpara-**
22 **graph;**

23 (D) **Shall provide funds as specified in ORS 327.019 (9) to a school district located within**
24 **the territory of the education service district that has withdrawn from the education service**
25 **district as provided in section 2 of this 2011 Act; and**

26 (E) **May enter into contracts with school districts that have withdrawn from the educa-**
27 **tion service district as provided in section 2 of this 2011 Act or that are located outside the**
28 **territory of the education service district for the purpose of providing services consistent**
29 **with the local service plan.**

30 (b) **If an education service district board is required to provide funds to a school district**
31 **under paragraph (a)(C) of this subsection, the education service district board shall provide**
32 **the funds as a percentage of the funds available to the education service district under ORS**
33 **334.177 that is at least equal to the lesser of:**

34 (A) **The percentage that the education service district board provided to the school dis-**
35 **trict in the 2010-2011 fiscal year; or**

36 (B) **The percentage requested by the school district, as provided by paragraph (a)(C) of**
37 **this subsection.**

38 (5) The education service district board may employ and fix the compensation of such personnel
39 as it considers necessary for carrying out duties of the board.

40 (6) In carrying out its duties, the education service district board:

41 (a) May locate, buy, accept by gift or lease such land, buildings and facilities as may be required
42 for district purposes. Leases authorized by this section may be for a term of up to 30 years and
43 include lease-purchase agreements whereunder the district may acquire ownership of the leased
44 property.

45 (b) May acquire personal property by a lease-purchase agreement or contract of purchase for a

1 term exceeding one year. A lease-purchase agreement is one in which the rent payable by the dis-
2 trict is expressly agreed to have been established to reflect the savings resulting from the exemption
3 from taxation, and the district is entitled to ownership of the property at a nominal or other price
4 which is stated or determinable by the terms of the agreement and was not intended to reflect the
5 true value of the property.

6 (c) May lease property or sell and convey property of the district as the board considers un-
7 necessary to its purposes.

8 (d) May purchase relocatable structures in installment transactions in which deferred install-
9 ments of the purchase price are payable over not more than 10 years from the date of delivery of
10 the property to the district and are secured by a security interest in the property. The transactions
11 may take the form of, but are not limited to, lease-purchase agreements.

12 (e) May accept money or property donated for the use or benefit of the district and use the
13 money or property for the purpose for which it was donated.

14 (7) The education service district board may adopt rules it considers necessary to carry out the
15 duties of the board.

16 (8) The education service district may contract with public and private entities for service de-
17 livery.

18 (9)(a) The education service district shall work cooperatively with component school districts
19 and review periodically with component school districts the operations of component school districts
20 and shall submit to the component school districts plans for operations that achieve economies and
21 efficiencies through consolidation of various operations of all or some of the districts. The education
22 service district and its component school districts shall submit an annual report on the effectiveness
23 of the consolidation of operations to the State Board of Education.

24 (b) As used in this subsection, "operations" means services involving transportation, payroll,
25 student records, auditing, legal services, insurance, printing, investment and other similar services.

26 **SECTION 11.** ORS 334.127 is amended to read:

27 334.127. (1) Whenever an education service district ceases to exist, its real property shall pass
28 to the successor district, which is authorized to treat [*such*] **the** property in the same manner as
29 [*its*] **did the** predecessor district [*did*].

30 (2) **Whenever a school district withdraws from an education service district as provided**
31 **in section 2 of this 2011 Act, the school district and education service district shall determine**
32 **the disposition of any real property of the education service district that is located within**
33 **the boundaries of the school district. If the school district and the education service district**
34 **are unable to agree on how to dispose of the real property, the education service district**
35 **shall retain the property.**

36 **SECTION 12.** ORS 334.175 is amended to read:

37 334.175. (1) An education service district shall provide regionalized core services to component
38 school districts. The goals of these services are to:

39 (a) Assist component school districts in meeting the requirements of state and federal law;

40 (b) Improve student learning;

41 (c) Enhance the quality of instruction provided to students;

42 (d) Provide professional development to component school district employees;

43 (e) Enable component school districts and the students who attend schools in those districts to
44 have equitable access to resources; and

45 (f) Maximize operational and fiscal efficiencies for component school districts.

1 (2) The services provided by an education service district shall be provided according to a local
2 service plan developed by the education service district and component school districts. The educa-
3 tion service district and component school districts shall develop the local service plan to meet the
4 goals specified in subsection (1) of this section. The local service plan must include services in at
5 least the following areas:

6 (a) Programs for children with special needs, including but not limited to special education ser-
7 vices, services for at-risk students and professional development for employees who provide those
8 services.

9 (b) Technology support for component school districts and the individual technology plans of
10 those districts, including but not limited to technology infrastructure services, data services, in-
11 structional technology services, distance learning and professional development for employees who
12 provide those services.

13 (c) School improvement services for component school districts, including but not limited to:

14 (A) Services designed to support component school districts in meeting the requirements of state
15 and federal law;

16 (B) Services designed to allow the education service district to participate in and facilitate a
17 review of the state and federal standards related to the provision of a quality education by compo-
18 nent school districts;

19 (C) Services designed to support and facilitate continuous school improvement planning;

20 (D) Services designed to address schoolwide behavior and climate issues;

21 (E) Services designed to support career and technical education; and

22 (F) Professional development for employees who provide the services described in this para-
23 graph.

24 (d) Administrative and support services for component school districts, including but not limited
25 to services designed to consolidate component school district business functions, liaison services
26 between the Department of Education and component school districts and registration of children
27 being taught by private teachers, parents or legal guardians pursuant to ORS 339.035.

28 (e) Other services that an education service district is required to provide by state or federal
29 law, including but not limited to services required under ORS 339.005 to 339.090.

30 (3) In addition to the services specified in subsection (2) of this section, a local service plan may
31 include other services that are designed to meet regional needs.

32 (4) A local service plan shall also contain annual performance measures for the education ser-
33 vice district.

34 (5) A local service plan must:

35 (a) Be adopted by the board of the education service district.

36 (b) After being adopted by the board of the education service district, be approved on or before
37 March 1 by resolution of two-thirds of the component school districts that are a part of the educa-
38 tion service district and that have at least a majority of the pupils included in the average daily
39 membership of the education service district, as determined by the reports of such school districts
40 for the preceding year, enrolled in the schools of the school districts.

41 (6) Notwithstanding the process for approval and adoption required by subsection (5) of this
42 section, if the component school districts approve an amendment to a local service plan pursuant
43 to subsection (5)(b) of this section, the board of an education service district may amend a local
44 service plan that has been previously adopted by the board and approved by the component school
45 districts. An amendment to a local service plan may be done at any time.

1 **(7) If a component school district determines that a local service plan, or the provision**
 2 **of services under a local service plan, does not meet the service needs of the component**
 3 **school district, then the component school district may contract with a public or private**
 4 **entity for the provision of services.**

5 [(7)] (8) An education service district may provide the services required by the local service plan
 6 directly through the staff of the district. In addition, an education service district may provide ser-
 7 vices required by the local service plan through the operation of a public school, a public charter
 8 school pursuant to ORS chapter 338, an alternative school or a preschool.

9 [(8)] (9) An education service district may provide the services required by the local service plan
 10 in cooperation with another education service district or with a school district. In addition, an ed-
 11 ucation service district may contract with a public or private entity for the provision of services.

12 **SECTION 13.** ORS 334.177 is amended to read:

13 334.177. (1) As used in this section, “local revenues of an education service district” has the
 14 meaning given that term in ORS 327.019 but does not include any local revenues distributed [*to*
 15 *component school districts*] under ORS 327.019 (8).

16 (2) An education service district board shall expend at least 90 percent of all amounts received
 17 from the State School Fund and at least 90 percent of all amounts considered to be local revenues
 18 of an education service district on services or programs that have been approved by the component
 19 school districts of the education service district through the resolution process described in ORS
 20 334.175.

21 (3) An education service district board shall expend 100 percent of all amounts received from
 22 the School Improvement Fund on services or programs that have been approved by the component
 23 school districts of the education service district through the resolution process described in ORS
 24 334.175.

25 **(4) The expenditure requirements of this section apply only to amounts retained by the**
 26 **education service district after making any distributions required under ORS 327.019 (9).**

27 **SECTION 14.** ORS 334.240 is amended to read:

28 334.240. (1) **Except as provided in subsection (2) of this section,** the education service district
 29 board shall be subject in all respects to the Local Budget Law (ORS 294.305 to 294.565)[, *except that*
 30 *in addition to other qualifications, members of the budget committee who are not members of the edu-*
 31 *cation service district board shall be members of component school district boards within the education*
 32 *service district or shall be designees of a school district board].*

33 [(2) *Notwithstanding ORS 294.336 and 294.341, a majority of the members of the budget committee*
 34 *of an education service district must consist of members of the component school district boards or*
 35 *designees of a school district board. The budget committee may meet to conduct business if the educa-*
 36 *tion service district board is unable to fill all of the positions on the budget committee.]*

37 **(2) Notwithstanding ORS 294.336 and 294.341, the members of the budget committee of**
 38 **an education service district must be members of the component school district boards.**
 39 **Preference for membership of the budget committee shall be given to members of component**
 40 **school district boards that are not represented on the board of directors of the education**
 41 **service district.**

42 (3) The [*board of the education service district*] **budget committee** shall prepare [*and adopt*] a
 43 budget for the operational and administrative expenses of the education service district. The budget
 44 shall include amounts necessary to provide services required by the local service plan of the district
 45 developed under ORS 334.175. **The budget must be adopted by the board of the education ser-**

1 **vice district.**

2 (4) **The board of the education service district shall ensure that an annual audit of the**
3 **accounts of the education service district is prepared in accordance with the Municipal Audit**
4 **Law, as provided in ORS 297.405 to 297.555 and 297.990.**

5 **SECTION 15.** ORS 334.730 is amended to read:

6 334.730. [(1)] Immediately after the order to join two or more education service districts to-
7 gether, the boards of directors of all education service districts within the boundaries of the new
8 district shall meet together upon the call of the chairperson of the board of the most populous dis-
9 trict. [Notwithstanding ORS 334.025 or ORS chapter 255, the joint board of directors shall divide the
10 new district into as many zones as the board considers necessary, but not fewer than seven nor more
11 than 11. The zones shall be as nearly equal in population as may be practicable. If possible, the joint
12 board shall establish the zones so that each county within the new education service district, the ma-
13 jority of the land area of which lies within the boundaries of the education service district, has at least
14 one member on the board.]

15 [(2) Within 90 days after the zones required in subsection (1) of this section are established, the
16 joint board of directors shall call a special election in the new district for the purpose of electing di-
17 rectors, one of whom shall be elected from each zone established under subsection (1) of this section
18 by the electors of the zone.]

19 **SECTION 16.** ORS 334.760 is amended to read:

20 334.760. [During the period following their election and] Prior to the date the new education
21 service district comes into existence, the board of directors of the new education service district
22 may take such action as is essential in order that the new district may carry out its required func-
23 tions when it comes into existence, including the preparation and adoption of a budget for the new
24 district. Expenditures of the board under this section shall be paid from the budgets of the compo-
25 nent education service districts on a prorated basis.

26 **SECTION 17.** Section 15, chapter 828, Oregon Laws 2005, as amended by section 6, chapter 589,
27 Oregon Laws 2007, and section 6, chapter 59, Oregon Laws 2010, is amended to read:

28 **Sec. 15.** (1) Sections 11 to 14, chapter 828, Oregon Laws 2005, are repealed on June 30, [2013]
29 **2012.**

30 (2) The amendments to ORS 260.432 by section 8, chapter 589, Oregon Laws 2007, become op-
31 erative on June 30, [2013] **2012.**

32 **SECTION 18. The term of office of a director who serves on the board of directors of an**
33 **education service district terminates on June 30, 2012.**

34 **SECTION 19.** ORS 327.019 is amended to read:

35 327.019. (1) As used in this section:

36 (a) "Education service district extended ADMw" means the sum of the extended ADMw of the
37 [component] school districts **located within the territory** of the education service district as com-
38 puted under ORS 327.013.

39 (b) "Local revenues of an education service district" means the total of the following:

40 (A) The amount of revenue offset against local property taxes as determined by the Department
41 of Revenue under ORS 311.175 (3)(a)(A);

42 (B) The amount of property taxes actually received by the district including penalties and in-
43 terest on taxes;

44 (C) The amount of revenue received by the district from state-managed forestlands under ORS
45 530.115 (1)(b) and (c); and

1 (D) Any positive amount obtained by subtracting the operating property taxes actually imposed
 2 by the district based on the rate certified pursuant to ORS 310.060 from the amount that would have
 3 been imposed by the district if the district had certified the maximum rate of operating property
 4 taxes allowed by law.

5 (2) Each fiscal year, the Superintendent of Public Instruction shall calculate a State School Fund
 6 grant for each education service district as provided in this section.

7 (3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or al-
 8 located to the State School Fund and available for distribution to school districts, education service
 9 districts and programs + total amount of local revenues of all school districts, computed as provided
 10 in ORS 327.011, + total amount of local revenues of all education service districts. The super-
 11 intendent may not include in the calculation under this paragraph amounts received by the De-
 12 partment of Education from the State School Fund under ORS 343.243.

13 (b) The superintendent shall multiply the amount calculated under paragraph (a) of this sub-
 14 section by [~~95.25~~] **96.44** percent.

15 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
 16 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to
 17 327.133, 327.348, 327.355, 327.357 and 327.360 the total amount calculated under paragraph (b) of this
 18 subsection as school district general purpose grants, facility grants, high cost disabilities grants and
 19 transportation grants to school districts.

20 (d) Based on the funding percentage calculated under paragraph (c) of this subsection, the su-
 21 perintendent shall calculate the general purpose grant, facility grant, transportation grant and high
 22 cost disabilities grant amounts for each school district.

23 (4) The general services grant for an education service district shall equal the higher of:

24 (a) The total amount calculated under subsection (3)(d) of this section for the [*component*] school
 25 districts **located within the territory** of the education service district \times (~~[4.75]~~ **3.56**~~÷~~ [~~95.25~~]
 26 **96.44**); or

27 (b) \$1 million.

28 (5) Subject to subsection (6) of this section, the State School Fund grant for an education service
 29 district = general services grant – local revenues of the education service district.

30 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-
 31 intendent of Public Instruction shall apportion from the State School Fund to each education service
 32 district an amount = (funding percentage \times general services grant) – local revenues of the educa-
 33 tion service district.

34 (b) The funding percentage used in paragraph (a) of this subsection shall be calculated by the
 35 superintendent to distribute as nearly as practicable the total amount available for distribution to
 36 education service districts from the State School Fund for each fiscal year.

37 (7) Notwithstanding subsections (5) and (6) of this section:

38 (a) The State School Fund grant of an education service district may not be less than zero; and

39 (b) The State School Fund grant of an education service district shall be in an amount that,
 40 when combined with the local revenues of the education service district, equals \$1 million or more.

41 (8) An education service district shall distribute to [*its component*] school districts **located**
 42 **within the territory of the education service district** any amount of local revenues of the edu-
 43 cation service district that is greater than the general services grant. The amount that each [*com-*
 44 *ponent*] school district receives under this subsection shall be prorated based on the district
 45 extended ADMw of [*each*] **the school district as calculated under ORS 327.013.**

1 **(9)(a) An education service district shall distribute to a school district that is located**
2 **within the territory of the education service district but that has withdrawn from the edu-**
3 **cation service district as provided in section 2 of this 2011 Act the following:**

4 **(A) Amounts received by the education service district from the State School Fund and**
5 **the School Improvement Fund; and**

6 **(B) Amounts described in ORS 757.612 (3)(e) that are received by the education service**
7 **district.**

8 **(b) The amounts that a school district receives under this subsection:**

9 **(A) Shall be prorated based on the district extended ADMw of the school district as cal-**
10 **culated under ORS 327.013; and**

11 **(B) May be used to pay for any expenses incurred in providing services described in ORS**
12 **334.175 (2) to the students of the school district by the school district or by a public or pri-**
13 **vate entity with which the school district has entered into a contract to provide the services.**

14 **SECTION 20. The amendments to ORS 327.019 by section 19 of this 2011 Act apply to**
15 **State School Fund distributions commencing with the 2011-2012 distributions.**

16 **SECTION 21. ORS 327.019, as amended by section 13, chapter 846, Oregon Laws 2007, section**
17 **4, chapter 439, Oregon Laws 2009, and section 11, chapter 698, Oregon Laws 2009, is amended to**
18 **read:**

19 327.019. (1) As used in this section:

20 (a) “Education service district extended ADMw” means the sum of the extended ADMw of the
21 [component] school districts **located within the territory** of the education service district as com-
22 puted under ORS 327.013.

23 (b) “Local revenues of an education service district” means the total of the following:

24 (A) The amount of revenue offset against local property taxes as determined by the Department
25 of Revenue under ORS 311.175 (3)(a)(A);

26 (B) The amount of property taxes actually received by the district including penalties and in-
27 terest on taxes;

28 (C) The amount of revenue received by the district from state-managed forestlands under ORS
29 530.115 (1)(b) and (c); and

30 (D) Any positive amount obtained by subtracting the operating property taxes actually imposed
31 by the district based on the rate certified pursuant to ORS 310.060 from the amount that would have
32 been imposed by the district if the district had certified the maximum rate of operating property
33 taxes allowed by law.

34 (2) Each fiscal year, the Superintendent of Public Instruction shall calculate a State School Fund
35 grant for each education service district as provided in this section.

36 (3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or al-
37 located to the State School Fund and available for distribution to school districts, education service
38 districts and programs + total amount of local revenues of all school districts, computed as provided
39 in ORS 327.011, + total amount of local revenues of all education service districts. The super-
40 intendent may not include in the calculation under this paragraph amounts received by the De-
41 partment of Education from the State School Fund under ORS 343.243.

42 (b) The superintendent shall multiply the amount calculated under paragraph (a) of this sub-
43 section by [95.25] **97.63** percent.

44 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
45 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to

1 327.133 and 327.348 the total amount calculated under paragraph (b) of this subsection as school
 2 district general purpose grants, facility grants, high cost disabilities grants and transportation
 3 grants to school districts.

4 (d) Based on the funding percentage calculated under paragraph (c) of this subsection, the su-
 5 perintendent shall calculate the general purpose grant, facility grant, transportation grant and high
 6 cost disabilities grant amounts for each school district.

7 (4) The general services grant for an education service district shall equal the higher of:

8 (a) The total amount calculated under subsection (3)(d) of this section for the [*component*] school
 9 districts **located within the territory** of the education service district \times (~~[4.75]~~ **2.37**~~÷~~ [95.25]
 10 **97.63**); or

11 (b) \$1 million.

12 (5) Subject to subsection (6) of this section, the State School Fund grant for an education service
 13 district = general services grant – local revenues of the education service district.

14 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-
 15 intendent of Public Instruction shall apportion from the State School Fund to each education service
 16 district an amount = (funding percentage \times general services grant) – local revenues of the educa-
 17 tion service district.

18 (b) The funding percentage used in paragraph (a) of this subsection shall be calculated by the
 19 superintendent to distribute as nearly as practicable the total amount available for distribution to
 20 education service districts from the State School Fund for each fiscal year.

21 (7) Notwithstanding subsections (5) and (6) of this section:

22 (a) The State School Fund grant of an education service district may not be less than zero; and

23 (b) The State School Fund grant of an education service district shall be in an amount that,
 24 when combined with the local revenues of the education service district, equals \$1 million or more.

25 (8) An education service district shall distribute to [*its component*] school districts **located**
 26 **within the territory of the education service district** any amount of local revenues of the educa-
 27 tion service district that is greater than the general services grant. The amount that each [*com-*
 28 *ponent*] school district receives under this subsection shall be prorated based on the district
 29 extended ADMw of [*each*] **the school district as calculated under ORS 327.013.**

30 (9)(a) **An education service district shall distribute to a school district that is located**
 31 **within the territory of the education service district but that has withdrawn from the edu-**
 32 **cation service district as provided in section 2 of this 2011 Act the following:**

33 (A) **Amounts received by the education service district from the State School Fund and**
 34 **the School Improvement Fund; and**

35 (B) **Amounts described in ORS 757.612 (3)(e) that are received by the education service**
 36 **district.**

37 (b) **The amounts that a school district receives under this subsection:**

38 (A) **Shall be prorated based on the district extended ADMw of the school district as cal-**
 39 **culated under ORS 327.013; and**

40 (B) **May be used to pay for any expenses incurred in providing services described in ORS**
 41 **334.175 (2) to the students of the school district by the school district or by a public or pri-**
 42 **ivate entity with which the school district has entered into a contract to provide the services.**

43 **SECTION 22. The amendments to ORS 327.019 by section 21 of this 2011 Act apply to**
 44 **State School Fund distributions commencing with the 2012-2013 distributions.**

45 **SECTION 23. ORS 294.447 is amended to read:**

294.447. (1) As used in this section, “extended ADMw” means:

(a) For a school district, the district extended ADMw as calculated under ORS 327.013.

(b) For an education service district, the sum of the extended ADMw of the [component] school districts **located within the territory** of the education service district.

(2) Notwithstanding ORS 294.445, a school district or education service district that uses the accrual basis method of accounting may include as accrued revenues in the budget and financial statement of the school district or education service district, for any fiscal year, an amount from the next fiscal year that is to be received in the next fiscal year. The amount accrued under this section may not be greater than the amount calculated under subsection (3)(b) or (c) of this section multiplied by the extended ADMw of the school district or education service district.

(3)(a) For each fiscal year, the Department of Education shall calculate the amount available in the State School Fund for grants and distributions to school districts and the amount available for grants and distributions to education service districts under ORS 327.008, 327.013 and 327.019 based on the appropriations and allocations made to the State School Fund for that fiscal year by the Legislative Assembly in regular session. The department may not include in the amount calculated to be available for school districts under this paragraph the amounts received by the Youth Corrections Education Program and the Juvenile Detention Education Program under ORS 327.026 from the State School Fund.

(b) The department shall calculate for school districts an amount equal to (the amount calculated under paragraph (a) of this subsection for school districts ÷ 12) ÷ the total statewide extended ADMw of all school districts.

(c) The department shall calculate for education service districts an amount equal to (the amount calculated under paragraph (a) of this subsection for education service districts ÷ 12) ÷ the total statewide extended ADMw of all education service districts.

(d) The department may adjust the calculations under this subsection based on current data for the factors used to calculate the State School Fund distribution to school districts and education service districts under ORS 327.008, 327.013 and 327.019.

(e) Notwithstanding paragraph (d) of this subsection, the department may not adjust the calculation under paragraph (a) of this subsection based on changes made to the appropriations or allocations to the State School Fund by the Legislative Assembly in special session or by rule of the Oregon Department of Administrative Services relating to allotting funds.

(4) Notwithstanding ORS 294.445, a community college district or community college service district that uses the accrual basis method of accounting may include as accrued revenues in the budget and financial statement of the community college district or community college service district, for any fiscal year, an amount from the next fiscal year that is to be received in the next fiscal year. The amount accrued under this section may not be greater than 25 percent of the amount the community college district or community college service district received as a Community College Support Fund grant for the fiscal year for which the revenues are to be accrued.

SECTION 24. ORS 255.005 is amended to read:

255.005. As used in this chapter:

(1) “County clerk” means the county clerk or the county official in charge of elections.

(2) “District board” means the governing body of a district.

(3) “District election” means any election authorized or required to be held by a district.

(4) “District elections authority” means the county court or board of county commissioners, district board or other body or officer authorized or required to call a district election.

1 (5) "Elections officer" means the:

2 (a) County clerk of the county in which the administrative office of the district is located re-
3 garding a measure, or a candidate for an office, to be voted on in a district located in more than
4 one county.

5 (b) County clerk regarding a measure, or a candidate for an office, to be voted on in a district
6 situated wholly within the county.

7 (6) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Consti-
8 tution.

9 (7) "Measure" includes any of the following submitted to the people for their approval or re-
10 jection at an election:

11 (a) A proposed law.

12 (b) An Act or part of an Act of the Legislative Assembly.

13 (c) A revision of or amendment to the Oregon Constitution.

14 (d) Local, special or municipal legislation.

15 (e) A proposition or question.

16 (8) "Regular district election" means the election held each year for the purpose of electing
17 members of any district board as defined in subsection (2) of this section.

18 (9) "School district" means a common school district, a union high school district[, *an education*
19 *service district*] or a community college district.

20 **SECTION 25.** ORS 267.380 is amended to read:

21 267.380. (1) As used in ORS 267.380 and 267.385, unless the context requires otherwise:

22 (a) "Employer" means:

23 (A) A person who is in such relation to another person that the person may control the work
24 of that other person and direct the manner in which it is to be done;

25 (B) An officer or employee of a corporation, or a member or employee of a partnership, who as
26 such officer, employee or member is under a duty to perform the acts required of employers by ORS
27 316.162 to 316.221; or

28 (C) The State of Oregon or any political subdivision in this state, except for a school district
29 as defined in ORS 255.005 (9) **or an education service district**, with respect to work performed
30 within the district by an employee of the State of Oregon or of the political subdivision.

31 (b) "Employer" does not include an organization exempt from taxation under section 501(c)(3)
32 of the Internal Revenue Code, as amended and in effect on December 31, 1996, except that
33 "employer" does include hospitals.

34 (c) "Wages" means remuneration for services performed by an employee for the employer, in-
35 cluding the cash value of all remuneration paid in any medium other than cash.

36 (d) "Net earnings from self-employment" has the same meaning as in section 1402 of the Internal
37 Revenue Code of 1986, as that section was in effect and operative on December 31, 1988. For the
38 purposes of computing net earnings from self-employment, a district may by ordinance from time to
39 time adopt definitions of the terms used in section 1402.

40 (e) "Individual" means any natural person.

41 (2) As used in this section and ORS 267.385, "wages" does not include remuneration paid:

42 (a) For services performed in the employ of the United States of America and institutions (ex-
43 cluding hospitals) exempt from taxation under section 501(c)(3) of the Internal Revenue Code, as
44 amended and in effect on December 31, 1996.

45 (b) For domestic service in a private home if the total amount paid to such employee is less than

1 \$1,000 a year.

2 (c) For casual labor not in the course of the employer's trade or business.

3 (d) For services performed wholly outside of the district.

4 (e) To an employee whose services to the employer consist solely of seasonal labor in connection
5 with the planting, cultivating or harvesting of agricultural crops.

6 (f) To seamen who are exempt from garnishment, attachment or execution under title 46, United
7 States Code.

8 (g) To individuals temporarily employed as emergency firefighters.

9 (h) If the remuneration is not subject to withholding under ORS chapter 316.

10 (i) To employees' trusts exempt from taxation under section 401 of the Internal Revenue Code,
11 as amended and in effect on December 31, 1996.

12 (j) If the remuneration is not wages under section 3121(a)(5)(I) of the Internal Revenue Code, as
13 amended and in effect on December 31, 1996.

14 (3) "Net earnings from self-employment" does not include income:

15 (a)(A) From activities wholly outside of the district.

16 (B) That is wages.

17 (C) That would be wages under section 3121 of the Internal Revenue Code, as amended and in
18 effect on December 31, 1990, but for the provisions of section 3121(b)(8)(A) of the Internal Revenue
19 Code.

20 (b) That is not net earnings from self-employment under section 1402(a)(8) of the Internal Re-
21 venue Code by reason of the amendments to section 1402 by section 1456 of the Small Business Job
22 Protection Act of 1996 (P.L. 104-188).

23 (4) Notwithstanding any other provision of this section, "wages" includes:

24 (a) Any amount included in the definition of "wages" under section 3121 of the Internal Revenue
25 Code, as defined in ORS 316.012, by reason of the provisions of section 3121(a)(5)(C), 3121(a)(5)(D),
26 3121(v)(1)(A), 3121(v)(1)(B), 3121(v)(3)(A), 3121(a)(5)(E) or 3121(a)(5)(H) of the Internal Revenue Code;
27 or

28 (b) Any amount deferred under a nonqualified deferred compensation plan.

29 (5) Any amount taken into account as wages by reason of subsection (4) of this section and the
30 income attributable thereto shall not afterwards be treated as wages under this section.

31 **SECTION 26.** ORS 327.297 is amended to read:

32 327.297. (1) In addition to those moneys distributed through the State School Fund, the Depart-
33 ment of Education shall award grants to school districts, education service districts, the Youth
34 Corrections Education Program and the Juvenile Detention Education Program for activities that
35 relate to increases in student achievement, including:

36 (a) Early childhood support including establishing, maintaining or expanding quality
37 prekindergarten programs and full-day kindergarten programs;

38 (b) Class size reduction with an emphasis on the reduction of kindergarten through grade three
39 class sizes;

40 (c) Increases in instructional time including summer programs and before- and after-school pro-
41 grams;

42 (d) Mentoring, teacher retention and professional development;

43 (e) Remediation, alternative learning and student retention;

44 (f) Services to at-risk youth;

45 (g) Programs to improve a student achievement gap between student groups identified by cul-

1 ture, poverty, language and race and other student groups;

2 (h) Vocational education programs;

3 (i) Literacy programs;

4 (j) School library programs; and

5 (k) Other research-based student improvement strategies approved by the State Board of Edu-
6 cation.

7 (2)(a) Each school district, each education service district, the Youth Corrections Education
8 Program and the Juvenile Detention Education Program may apply to the Department of Education
9 for a grant.

10 (b) The department shall review and approve applications based on criteria established by the
11 State Board of Education. In establishing the criteria, the State Board of Education shall consider
12 the recommendations of the Quality Education Commission established under ORS 327.500.

13 (c) The applications shall include the activities to be funded and the goals of the district or
14 program for increases in student performance. The applications shall become part of the local dis-
15 trict continuous improvement plan described in ORS 329.095.

16 (3) The Department of Education shall evaluate the annual progress of each recipient of grant
17 funds under this section toward the performance targets established by the Quality Education
18 Commission. The evaluation shall become part of the requirements of the department for assessing
19 the effectiveness of the district under ORS 329.085, 329.095 and 329.105. The department shall ensure
20 district and program accountability by providing appropriate assistance, intervening and establish-
21 ing consequences in order to support progress toward the performance targets.

22 (4) Each biennium the Department of Education shall issue a report to the Legislative Assembly
23 on the grant program and the results of the grant program.

24 (5)(a) Notwithstanding ORS 338.155 (9), the Department of Education may not award a grant
25 under this section directly to a public charter school.

26 (b) A school district that receives a grant under this section may transfer a portion of the grant
27 to a public charter school based on the charter of the school or any other agreement between the
28 school district and the public charter school.

29 (c) A public charter school that receives grant funds under this subsection shall use those funds
30 for the activities specified in subsection (1) of this section.

31 (6)(a) The amount of each grant for a program or school district = the program's or school
32 district's ADMw \times (the total amount available for distribution to programs and school districts as
33 grants in each fiscal year \div the total ADMw of all programs and school districts that receive a
34 grant).

35 (b) The amount of each grant for an education service district = the education service district's
36 ADMw \times (the total amount available for distribution to education service districts as grants in
37 each fiscal year \div the total ADMw of all education service districts that receive a grant).

38 (c) As used in this subsection, "ADMw" means:

39 (A) For a school district, the extended weighted average daily membership as calculated under
40 ORS 327.013, 338.155 (1) and 338.165 (3);

41 (B) For the Youth Corrections Education Program, the average daily membership as defined in
42 ORS 327.006 multiplied by 2.0;

43 (C) For the Juvenile Detention Education Program, the average daily membership as defined in
44 ORS 327.006 multiplied by 1.5; and

45 (D) For an education service district, the sum of the ADMw of the [component] school districts

1 **located within the territory** of the education service district.

2 (7) Each district or program shall deposit the grant amounts it receives under this section in a
3 separate account, and shall apply amounts in that account to pay for activities described in the
4 district's or program's application.

5 (8) The State Board of Education may adopt any rules necessary for the administration of the
6 grant program.

7 **SECTION 27.** ORS 332.136 is amended to read:

8 332.136. (1) Each position of school director shall be designated by number as Position No. 1,
9 Position No. 2 and so on.

10 (2) At the first organizational meeting of the board following formation of the district, the
11 chairperson of the board shall assign a position number to each office on the board. The chairperson
12 shall certify the number assigned to the director holding that position and shall file one copy of the
13 certification in the records of the district.

14 (3) This section applies to the following districts that are not zoned:

15 (a) Common school districts; **and**

16 (b) Union high school districts. [*and*]

17 [*(c) Education service districts.*]

18 **SECTION 28.** ORS 656.430 is amended to read:

19 656.430. (1) Upon determining that an employer has qualified as a self-insured employer under
20 ORS 656.407, the Director of the Department of Consumer and Business Services shall issue a cer-
21 tificate to that effect to the employer.

22 (2) Coverage of a self-insured employer is effective on the date of certification unless a later
23 date is specified in the certificate.

24 (3) Two or more entities shall not be included in the certification of one employer unless in each
25 entity the same person, or group of persons, or corporation owns a majority interest. If an entity
26 owns a majority interest in another entity which in turn owns the majority interest in another en-
27 tity, all entities so related may be combined regardless of the number of entities in succession. If
28 more than one entity is included in the certification of one employer, each entity included is jointly
29 and severally liable for any compensation and other amounts due the Department of Consumer and
30 Business Services under this chapter by any entity included in the certification.

31 (4) In the term "majority interest," as used in this section, "majority" means more than 50 per-
32 cent.

33 (5) If an entity other than a partnership:

34 (a) Has issued voting stock, "majority interest" means a majority of the issued voting stock;

35 (b) Has not issued voting stock, "majority interest" means a majority of the members; or

36 (c) Has not issued voting stock and has no members, "majority interest" means a majority of the
37 board of directors or comparable governing body.

38 (6) If the entity is a partnership, majority interest shall be determined in accordance with the
39 participation of each general partner in the profits of the partnership.

40 (7) Notwithstanding any other provision of this section, the director may certify five or more
41 subject employers as a self-insured employer group, which shall be considered an employer for pur-
42 poses of this chapter, if:

43 (a) The director finds that the employers as a group meet the requirements of ORS 656.407 (1)(b)
44 and (2);

45 (b) The director determines that:

1 (A) If the employers as a group have insurance coverage with a retention of \$100,000 or more,
2 the employers have a combined net worth of \$1 million or more; or

3 (B) If the employers as a group have insurance coverage with a retention of less than \$100,000,
4 the employers have a combined net worth at least equal to the proportion of \$1 million that the
5 retention bears to \$100,000;

6 (c) The director finds that the grouping is likely to improve accident prevention and claims
7 handling for the employer;

8 (d) Each employer executes and files with the designated entity a written agreement, in such
9 form as the director may prescribe, in which:

10 (A) The employer agrees to be jointly and severally liable for the payment of any compensation
11 and other amounts due to the Department of Consumer and Business Services under this chapter
12 incurred by a member of the group; or

13 (B) The employer, if a city, county, special district described and listed in ORS 198.010 or
14 198.180, translator district formed under ORS 354.605 to 354.715, weed control district organized
15 under ORS 569.350 to 569.450, intergovernmental agency created under ORS 225.050, school district
16 as defined in ORS 255.005 (9), **education service district organized under ORS chapter 334**,
17 public housing authority created under ORS chapter 456 or regional council of governments created
18 under ORS chapter 190, agrees to be individually liable for the payment of any compensation and
19 other amounts due to the department under this chapter incurred by the employer during the period
20 of group self-insurance;

21 (e) The director finds that the employer group is organized as a corporation or cooperative
22 pursuant to ORS chapter 60, 62 or 65, is an intergovernmental entity created under ORS 190.003 to
23 190.130 and the bylaws require the governing group to obtain fidelity bonds;

24 (f) The director finds that the employer group has designated an entity within or for the group
25 responsible for centralized claims processing, payroll records, safety requirements, recording and
26 submitting assessments and contributions and making such other reports as the director may re-
27 quire; and

28 (g) The employer has presented a method approved by the director to notify the department of:

29 (A) The commencement or termination of membership by employers in the group, and the effect
30 thereof on the net worth of the employers in the group; and

31 (B) Whether an employer who terminates membership in the group continues to be a subject
32 employer.

33 (8) A self-insured employer must have excess insurance coverage appropriate for the employer's
34 potential liability under this chapter with an insurer authorized to do business in this state. A self-
35 insured employer certified prior to November 1, 1981, must have excess insurance coverage appro-
36 priate for the employer's potential liability under this chapter either with an insurer authorized to
37 do business in this state or with any other insurer from whom such insurance can be obtained pur-
38 suant to ORS 744.305 to 744.405 (1985 Replacement Part). Evidence of such coverage must be sub-
39 mitted at the time application is made for self-insured certification in the form of an insurance
40 binder providing the appropriate coverage effective the date of certification. The policy providing
41 such coverage must be filed with the director not later than 30 days after the date the coverage is
42 effective. Any changes in the insurer or the coverage must be filed with the department not later
43 than 30 days after the effective date of the change. With respect to such coverage:

44 (a) The policy must include a provision, approved by the director, for reimbursement to the de-
45 partment of all expenses paid by the department on behalf of the employer pursuant to ORS 656.614

1 (1) and 656.443 in the same manner as if the department were the insured employer, subject to the
2 policy limitations on amounts and limits of liability to the insured employer; and

3 (b) The period of coverage must be continuous and remain in effect until the certification is
4 revoked or canceled.

5 (9) Notwithstanding ORS 656.440, the director may revoke the certification of any self-insured
6 employer after giving 30 days' written notice if the employer:

7 (a) Fails to comply with subsection (8) of this section; or

8 (b) In the case of an employer described in subsection (7) of this section, fails to comply with
9 that subsection.

10 (10) A self-insured employer must have an occupational safety and health loss control program
11 as required by ORS 654.097.

12 (11) The director, by rule shall:

13 (a) Prescribe methods for determining and approving net worth.

14 (b) Prescribe the types and approve the retention and limitation levels of excess insurance pol-
15 icies.

16 (c) Establish reporting requirements.

17 (d) Prescribe information to be submitted in applications for self-insured employer certifications.

18 (e) Prescribe the form and manner of reporting commencement or termination in a self-insured
19 employer group.

20 (f) Prescribe the form, amount and manner for establishing and operating a common claims fund.

21 (g) Prescribe such other requirements as the director considers necessary so that employers
22 certified as self-insured employers will meet the financial responsibilities under this chapter.

23 (12) For the purpose of certification as a self-insured employer group, cities, counties, special
24 districts created under ORS 198.010, intergovernmental agencies created under ORS 225.050, school
25 districts as defined in ORS 255.005 (9), **education service districts organized under ORS chapter**
26 **334**, public housing authorities created under ORS chapter 456 and regional councils of governments
27 created under ORS chapter 190 shall be considered by the director to be of the same industry.

28 (13) Notwithstanding subsection (8) of this section, a public utility with assets of more than \$500
29 million may obtain excess insurance coverage from an eligible surplus lines insurer. As used in this
30 subsection, "public utility" has the meaning given that term in ORS 757.005.

31 **SECTION 29.** ORS 757.612 is amended to read:

32 757.612. (1) There is established an annual public purpose expenditure standard for electric
33 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
34 market transformation efforts, the above-market costs of new renewable energy resources and new
35 low-income weatherization. The public purpose expenditure standard shall be funded by the public
36 purpose charge described in subsection (2) of this section.

37 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
38 cess to its retail electricity consumers, except residential electricity consumers, the electric com-
39 pany or Oregon Community Power shall collect a public purpose charge from all of the retail
40 electricity consumers located within its service area until January 1, 2026. Except as provided in
41 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the
42 total revenues collected by the electric company, Oregon Community Power or the electricity ser-
43 vice supplier from its retail electricity consumers for electricity services, distribution, ancillary
44 services, metering and billing, transition charges and other types of costs included in electric rates
45 on July 23, 1999.

1 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
2 per year, beginning on March 1, 2002, the electric company or Oregon Community Power whose
3 territory abuts the greatest percentage of the site of the aluminum plant shall collect from the alu-
4 minum company a public purpose charge equal to one percent of the total revenue from the sale of
5 electricity services to the aluminum plant from any source.

6 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
7 section relating to electric companies and Oregon Community Power.

8 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company or Oregon
9 Community Power through public purpose charges shall be allocated as follows:

10 (A) Sixty-three percent for new cost-effective conservation and new market transformation.

11 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
12 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
13 megawatts or less.

14 (C) Thirteen percent for new low-income weatherization.

15 (D) Five percent shall be transferred to the Housing and Community Services Department
16 Electricity Public Purpose Charge Fund established by ORS 456.587 (1) and used for the purpose of
17 providing grants as described in ORS 458.625 (2).

18 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
19 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
20 The commission may require that an electric company or Oregon Community Power direct funds
21 collected through public purpose charges to the state agencies responsible for implementing sub-
22 sections (1) to (6) of this section in order to pay the costs of administering such responsibilities.

23 (d) The commission shall direct the manner in which public purpose charges are collected and
24 spent by an electric company or Oregon Community Power and may require an electric company
25 or Oregon Community Power to expend funds through competitive bids or other means designed to
26 encourage competition, except that funds dedicated for low-income weatherization shall be directed
27 to the Housing and Community Services Department as provided in subsection (7) of this section.
28 The commission may also direct that funds collected by an electric company or Oregon Community
29 Power through public purpose charges be paid to a nongovernmental entity for investment in public
30 purposes described in subsection (1) of this section. Notwithstanding any other provision of this
31 subsection:

32 (A) At least 80 percent of the funds allocated for conservation shall be spent within the service
33 area of the electric company that collected the funds; or

34 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
35 for conservation shall be spent within the service area of Oregon Community Power.

36 (e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon
37 Community Power under subsection (2) of this section shall be distributed to education service dis-
38 tricts, as described in ORS 334.010, that are located in the service territory of the electric company
39 or Oregon Community Power. The funds shall be distributed to individual education service districts
40 according to the weighted average daily membership (ADMw) of the *[component]* school districts
41 **located within the territory** of the education service district for the prior fiscal year as calculated
42 under ORS 327.013. The commission shall establish by rule a methodology for distributing a
43 proportionate share of funds under this paragraph to education service districts that are only par-
44 tially located in the service territory of the electric company or Oregon Community Power.

45 (B) An education service district that receives funds under this paragraph shall use the funds

1 first to pay for energy audits for school districts located within the education service district. An
2 education service district may not expend additional funds received under this paragraph on a
3 school district facility until an energy audit has been completed for that school district. To the
4 extent practicable, an education service district shall coordinate with the State Department of En-
5 ergy and incorporate federal funding in complying with this paragraph. Following completion of an
6 energy audit for an individual school district, the education service district may expend funds re-
7 ceived under this paragraph to implement the energy audit. Once an energy audit has been con-
8 ducted and completely implemented for each school district within the education service district, the
9 education service district may expend funds received under this paragraph for any of the following
10 purposes:

11 (i) Conducting energy audits. A school district shall conduct an energy audit prior to expending
12 funds on any other purpose authorized under this paragraph unless the school district has performed
13 an energy audit within the three years immediately prior to receiving the funds.

14 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

15 (iii) Energy conservation education programs.

16 (iv) Purchasing electricity from environmentally focused sources and investing in renewable
17 energy resources.

18 (f) The commission may not establish a different public purpose charge than the public purpose
19 charge described in subsection (2) of this section.

20 (g) If the commission directs funds collected through public purpose charges to a nongovern-
21 mental entity, the entity shall:

22 (A) Include on the entity's board of directors an ex officio member designated by the commis-
23 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

24 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
25 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
26 in a form similar to the statement of economic interest required for public officials under ORS
27 244.060.

28 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
29 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
30 or director to abstain from participating in any discussion or vote on any item where that officer
31 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
32 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

33 (D) Arrange for an independent auditor to audit the entity's financial statements annually, and
34 direct the auditor to file an audit opinion with the commission for public review.

35 (E) File with the commission annually the entity's budget, action plan and quarterly and annual
36 reports for public review.

37 (F) At least once every five years, contract for an independent management evaluation to review
38 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a
39 report with the commission for public review.

40 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
41 ficer or director who fails to provide an annual disclosure of economic interest or declare actual
42 or potential conflict of interest, as described in paragraph (g)(B) and (C) of this subsection, in con-
43 nection with the allocation or expenditure of funds collected through public purpose charges and
44 directed to the entity.

45 (4)(a) An electric company that satisfies its obligations under this section shall have no further

1 obligation to invest in conservation, new market transformation or new low-income weatherization
2 or to provide a commercial energy conservation services program and is not subject to ORS 469.631
3 to 469.645 and 469.860 to 469.900.

4 (b) Oregon Community Power, for any period during which Oregon Community Power collects
5 a public purpose charge under subsection (2) of this section:

6 (A) Shall have no other obligation to invest in conservation, new market transformation or new
7 low-income weatherization or to provide a commercial energy conservation services program; and

8 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

9 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
10 any site in the prior year shall receive a credit against public purpose charges billed by an electric
11 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
12 total amount of qualifying expenditures for new energy conservation, not to exceed 68 percent of the
13 annual public purpose charges, and the above-market costs of purchases of new renewable energy
14 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
15 purpose charges, less administration costs incurred under this subsection. The credit may not ex-
16 ceed, on an annual basis, the lesser of:

17 (A) The amount of the retail electricity consumer's qualifying expenditures; or

18 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
19 dedicated to new energy conservation, new market transformation or the above-market costs of new
20 renewable energy resources.

21 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
22 State Department of Energy a description of the proposed conservation project or new renewable
23 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
24 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
25 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
26 a retail electricity consumer provides a letter from a certified public accountant to the State De-
27 partment of Energy verifying that the precertified qualifying expenditure has been made.

28 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
29 are not used in one year may be carried forward for use in subsequent years.

30 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
31 any site in the prior year may request that the State Department of Energy hire an independent
32 auditor to assess the potential for conservation investments at the site. If the independent auditor
33 determines there is no available conservation measure at the site that would have a simple payback
34 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
35 obligation for public purpose charges related to the site. If the independent auditor determines that
36 there are potential conservation measures available at the site, the retail electricity consumer shall
37 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
38 public purpose charges less the estimated cost of available conservation measures.

39 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
40 section unless a subsequent independent audit determines that new conservation investment oppor-
41 tunities are available. The State Department of Energy may require that a new independent audit
42 be performed on the site to determine whether new conservation measures are available, provided
43 that the independent audits shall occur no more than once every two years.

44 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
45 subsection.

1 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
2 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
3 adopt rules to determine eligible expenditures and the methodology by which such credits are ac-
4 counted for and used. The rules also shall adopt methods to account for eligible public purpose
5 expenditures made through consortia or collaborative projects.

6 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
7 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
8 ment assistance in an amount determined under paragraph (b) of this subsection.

9 (b) The commission shall establish the amount to be collected by each electric company in cal-
10 endar year 2008 from retail electricity consumers served by the company, and the rates to be
11 charged to retail electricity consumers served by the company, so that the total anticipated col-
12 lection for low-income electric bill payment assistance by all electric companies in calendar year
13 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not
14 change the rates established for retail electricity consumers, but the total amount collected in a
15 calendar year for low-income electric bill payment assistance may vary based on electricity usage
16 by retail electricity consumers and changes in the number of retail electricity consumers in this
17 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
18 per site for low-income electric bill payment assistance.

19 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
20 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
21 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
22 used by the Housing and Community Services Department for the purpose of funding low-income
23 electric bill payment assistance. The department's cost of administering this subsection shall be paid
24 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited
25 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-
26 sistance. Funds collected from an electric company or Oregon Community Power shall be expended
27 in the service area of the electric company or Oregon Community Power from which the funds are
28 collected.

29 (d) The Housing and Community Services Department, in consultation with the federal Advisory
30 Committee on Energy, shall determine the manner in which funds collected under this subsection
31 will be allocated by the department to energy assistance program providers for the purpose of pro-
32 viding low-income bill payment and crisis assistance, including programs that effectively reduce
33 service disconnections and related costs to retail electricity consumers and electric utilities. Priority
34 assistance shall be directed to low-income electricity consumers who are in danger of having their
35 electricity service disconnected.

36 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
37 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
38 vide heating bill payment and crisis assistance to electricity consumers whose primary source of
39 heat is not electricity.

40 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
41 Community Power to provide reduced rates or other payment or crisis assistance or low-income
42 program assistance to a low-income household eligible for assistance under the federal Low Income
43 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

44 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
45 dustrial consumer that purchases electricity without purchasing distribution services from the elec-

1 tric utility.

2 (9) For purposes of this section, amounts collected by Oregon Community Power through public
3 purpose charges are not considered moneys received from electric utility operations.

4 **SECTION 30.** Sections 31 and 32 of this 2011 Act are added to and made a part of ORS
5 chapter 334.

6 **SECTION 31.** (1) As used in this section:

7 (a) "Obligations" means all contractual obligations, employment and service contracts
8 and collective bargaining agreements.

9 (b) "Reorganized" means a change in:

10 (A) The boundaries of an education service district, including a merger; or

11 (B) The governance structure of an education service district.

12 (2) Employees who are employed by an education service district that is reorganized and
13 who are employed in duties that, after the reorganization, are to be performed by the new
14 education service district shall be considered employees of the new education service district.
15 The new education service district shall succeed the previous education service district as
16 party to any employment contracts.

17 (3) Employees in the new education service district shall retain any seniority and accu-
18 mulated sick leave and vacation leave from the previous education service district.

19 (4) All real and personal property belonging to an education service district that is reor-
20 ganized is considered property of the new education service district.

21 (5) All obligations of an education service district that is reorganized are considered ob-
22 ligations of the new education service district.

23 **SECTION 32.** (1) A school district that withdraws from an education service district as
24 provided by section 2 of this 2011 Act shall hire a person who:

25 (a) Was employed by the education service district prior to the withdrawal of the school
26 district; and

27 (b) Will be employed by the school district in duties similar to the duties the person
28 performed while employed by the education service district.

29 (2) Nothing in this section requires a school district to hire a person who had been em-
30 ployed by an education service district if the school district does not have a vacant position.

31 (3) The hiring requirement described in this section does not apply to the superintendent
32 of the education service district or to any other administrators, as defined in ORS 342.120,
33 of the education service district.

34 (4) A person hired as required by this section shall retain any seniority and accumulated
35 sick leave and vacation leave from the person's previous employment by the education ser-
36 vice district.

37 (5) The hiring requirement described in this section applies only during the 12 calendar
38 months immediately following the effective date of the withdrawal of the school district from
39 the education service district.

40 **SECTION 33.** ORS 334.032, 334.035, 334.045, 334.090, 334.095, 334.740 and 334.750 and section
41 5, chapter 59, Oregon Laws 2010, are repealed.

42 **SECTION 34.** The amendments to ORS 255.005, 267.380, 332.136, 334.025, 334.100, 334.240,
43 334.730, 334.760 and 656.430 and section 15, chapter 828, Oregon Laws 2005, by sections 6, 9,
44 14 to 17, 24, 25, 27 and 28 of this 2011 Act and the repeal of ORS 334.032, 334.035, 334.045,
45 334.090, 334.095, 334.740 and 334.750 and section 5, chapter 59, Oregon Laws 2010, by section

1 **33 of this 2011 Act become operative July 1, 2012.**

2 **SECTION 35. This 2011 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
4 **on its passage.**

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