

Senate Bill 255

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies contents of and process for proposal to establish public charter school. Modifies processes for renewal and termination of charter for public charter school. Clarifies list of laws that apply to public charter schools.

A BILL FOR AN ACT

1
2 Relating to public charter schools; creating new provisions; and amending ORS 338.025, 338.035,
3 338.045, 338.055, 338.065, 338.075, 338.095, 338.105 and 338.115.

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

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

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

7 (a) As a new public school;

8 (b) As a virtual public charter school;

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

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

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

12 (A) Be approved by a sponsor;

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

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

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

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

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

21 **(3) A member of the school district board of the school district within which a public**
22 **charter school is located may not be a voting member of the governing body of the public**
23 **charter school, but may act in an advisory capacity on the governing body of the public**
24 **charter school.**

25 [(3)] **(4) An applicant seeking to establish a public charter school shall submit a proposal pur-**
26 **suant to ORS 338.045 to the school district board of the school district within which the public**
27 **charter school will be located [at least 120 days prior to the date upon which the public charter school**
28 **would begin operating.] by the date identified by the school district board. The school district**
29 **board shall identify a date that is at least 180 days prior to the date upon which the public**
30 **charter school would begin operating and that provides a reasonable period of time for 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 board to complete the approval process described in ORS 338.055 and for the**
 2 **public charter school to begin operating by the beginning of a school year.** [*However, it is re-*
 3 *commended that*] An applicant **may** consult with the school district board prior to submitting a
 4 proposal **and the school district board may require an applicant to submit a letter of intent**
 5 **within a reasonable period of time prior to submitting a proposal.**

6 [(4)] (5) An applicant seeking to establish a public charter school shall provide to the State
 7 Board of Education a copy of any proposal submitted to a school district board under ORS 338.045
 8 and a copy of any subsequent approval by the school district board.

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

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

13 [(6)(a)] (7)(a) A school district board or the State Board of Education may not approve a public
 14 charter school proposal that authorizes the conversion of any private school that is tuition based
 15 to a public charter school.

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

19 [(7)] (8) A school district board or the State Board of Education may not approve a **proposal**
 20 **for a** public charter school [*proposal*] that is affiliated with a nonpublic sectarian school or a reli-
 21 gious institution.

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

23 338.045. (1) An applicant seeking to establish a public charter school shall submit a written
 24 proposal to a school district board.

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

26 (a) The identification of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

43 (n) A description of the financial management systems for the public charter school and a plan
 44 for having the financial management systems in place at the time the school begins operating;

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

- 1 students;
- 2 (p) The proposed school calendar for the public charter school, including the length of the
- 3 school day and school year;
- 4 (q) A description of the proposed staff members and required qualifications of teachers at the
- 5 public charter school;
- 6 (r) The date upon which the public charter school would begin operating;
- 7 (s) The arrangements for any necessary special education and related services provided pursuant
- 8 to ORS 338.165 for children with disabilities who may attend the public charter school;
- 9 (t) Information on the manner in which community groups may be involved in the planning and
- 10 development process of the public charter school;
- 11 (u) The term of the charter;
- 12 (v) The plan for performance bonding or insuring the public charter school, including buildings
- 13 and liabilities;
- 14 (w) A proposed plan for the placement of public charter school teachers, other school employees
- 15 and students of the public charter school upon termination or nonrenewal of a charter;
- 16 (x) The manner in which the program review and fiscal audit will be conducted; and
- 17 (y) In the case of an existing public school being converted to charter status:
- 18 (A) The alternative arrangements for students who choose not to attend the public charter
- 19 school and for teachers and other school employees who choose not to participate in the public
- 20 charter school; and
- 21 (B) The relationship that will exist between the public charter school and its employees, in-
- 22 cluding evidence that the terms and conditions of employment have been addressed with affected
- 23 employees and their recognized representative, if any.
- 24 (3) In addition to the requirements of subsection (2) of this section[,]:
- 25 (a) The school district board may require any additional information the board considers rele-
- 26 vant to the formation or operation of a public charter school.
- 27 **(b) Each member of a proposed public charter school governing body must provide ac-**
- 28 **knowledge of understanding related to the standards of conduct and the liabilities of a**
- 29 **director of a nonprofit organization, as those standards and liabilities are described in ORS**
- 30 **chapter 65, if the public charter school is organized as required by ORS 338.035 (2)(a)(B) and**
- 31 **(C).**
- 32 (4) At the request of the applicant, the school district board may provide technical assistance
- 33 in developing the proposal for operation of the public charter school.
- 34 (5) School districts, education service districts and other public bodies, as defined in ORS
- 35 174.109, shall make available to the public lists of vacant and unused public buildings and portions
- 36 of buildings that may be suitable for the operation of a public charter school. The lists shall be
- 37 provided to developing or operating public charter schools within 30 days of a written request.
- 38 Nothing in this subsection requires the owner of a building on the list to sell or lease the building
- 39 or any portion of the building to a public charter school or a public charter school governing body.
- 40 **SECTION 3.** ORS 338.055 is amended to read:
- 41 **338.055. (1)(a) Upon receipt of a proposal submitted under ORS 338.045, the school district**
- 42 **board shall determine whether the proposal is complete. A proposal is complete if the pro-**
- 43 **posal addresses, at least minimally, each element required by ORS 338.045 (2) and (3).**
- 44 **(b) The school district board shall notify an applicant within 30 days after receipt of a**
- 45 **proposal if the proposal is not complete and identify the specific elements of the proposal**

1 **that are not complete. The school district board shall provide the applicant with a reasonable**
 2 **opportunity to complete the proposal.**

3 **(c) A proposal may be disapproved if the applicant has received a reasonable opportunity**
 4 **to complete the proposal and the applicant does not provide a proposal that is complete.**

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

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

10 **(B) Complete and remand the proposal to the school district board for consideration.**

11 *[(1)]* **(2)** Within 60 days *[of]* **after** receipt of a **completed** proposal *[submitted under ORS*
 12 *338.045]*, the school district board shall hold a public hearing on the provisions of the proposal.

13 *[(2)]* **(3)** The school district board shall evaluate a proposal in good faith using the following
 14 criteria:

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

18 (b) The demonstrated financial stability of the public charter school, including the demonstrated
 19 ability of the school to have a sound financial management system in place at the time the school
 20 begins operating;

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

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

26 (e) The *[extent to which the proposal addresses the information required in]* **adequacy of the in-**
 27 **formation provided as required by ORS 338.045 (2) and (3);**

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

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

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

35 *[(3)]* **(4)** The school district board must approve a proposal or state in writing the reasons for
 36 disapproving a proposal within 30 days after the public hearing held under subsection *[(1)]* **(2)** of this
 37 section.

38 *[(4)]* **(5)(a)** Written notice of the school district board's action shall be sent to the applicant. If
 39 the proposal is not approved[,];

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

43 **(B)** The applicant may amend the proposal to address objections and any suggested remedial
 44 measures and resubmit the proposal to the school district board.

45 **(b)** The school district board shall approve or disapprove the resubmitted proposal within [20]

1 **30** days after receiving it. If the proposal is not approved, the applicant may appeal the decision of
 2 the school district board to the State Board of Education.

3 **(c) When the State Board of Education receives an appeal under this subsection, the**
 4 **board may review the resubmitted proposal only to determine whether:**

5 **(A) The school district board used the process required by this section in denying the**
 6 **proposal;**

7 **(B) The proposal meets the criteria described in subsection (3) of this section; and**

8 **(C) The reasons stated by the school district board for the denial are valid.**

9 **(d) Following a review described in paragraph (c) of this subsection, the State Board of**
 10 **Education may:**

11 **(A) Uphold the decision of the school district board not to approve the proposal; or**

12 **(B) Remand the proposal to the school district board for reconsideration.**

13 **[(5)] (6)(a) Individual elements in a public charter school proposal may be changed through the**
 14 **proposal and chartering process by mutual agreement of the school district board and**
 15 **applicant.**

16 **(b) If the school district board and the applicant are not able to agree on a change during**
 17 **the proposal or chartering process, the school district board or the applicant may request**
 18 **mediation by the State Board of Education.**

19 **(c) If the school district board and applicant are unable to reach an agreement following**
 20 **mediation as described in paragraph (b) of this subsection, the proposal submitted under ORS**
 21 **338.045, without the change that was the subject of mediation, shall be the proposal that**
 22 **governs the public charter school and:**

23 **(A) The parties may execute the charter for the public charter school based on the pro-**
 24 **posal;**

25 **(B) The applicant may withdraw the proposal; or**

26 **(C) The school district board may disapprove the proposal.**

27 **[(6)] (7) [A proposal to convert] Before an existing public school is converted to a public char-**
 28 **ter school, the proposal for the conversion must be approved by the school district board of the**
 29 **public school.**

30 **[(7)] (8) The school district board or the State Board of Education shall not charge any fee to**
 31 **applicants for the proposal process.**

32 **[(8)] (9) Upon request by a school district, the State Board of Education may grant an extension**
 33 **of any timeline required by this section if the district has good cause for requesting the extension.**

34 **SECTION 4. ORS 338.075 is amended to read:**

35 **338.075. (1)(a) If a school district board does not approve a proposal to [start] establish a public**
 36 **charter school following reconsideration of a proposal pursuant to ORS 338.055 (5), the applicant**
 37 **may request that the State Board of Education review the decision of the school district board. The**
 38 **State Board of Education may review the proposal only to determine whether:**

39 **(A) The school district board used the process required by ORS 338.055 in denying the**
 40 **proposal;**

41 **(B) The proposal meets the criteria described in ORS 338.055 (3); and**

42 **(C) The reasons stated by the school district board for the denial are valid.**

43 **(b) Following a review described in paragraph (a) of this subsection, the State Board of**
 44 **Education may:**

45 **(A) Uphold the decision of the school district board not to approve the proposal;**

1 **(B) Remand the proposal to the school district board for reconsideration if the school**
 2 **district board and applicant agree to the remand; or**

3 **(C) Consider becoming the sponsor of the public charter school if the applicant agrees**
 4 **to the sponsorship.**

5 *[(2) Upon receipt of a request for review, the State Board of Education:]*

6 *[(a) Shall attempt to mediate a resolution between the applicant and the school district board.]*

7 *[(b) May recommend to the applicant and school district board revisions to the proposal.]*

8 *[(c) If the school district board does not accept the revisions to the proposal and the applicant*
 9 *agrees to the sponsorship, may become the sponsor of the public charter school.]*

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

13 *[(4) (2) An applicant may seek judicial review of an order of the State Board of Education*
 14 *pursuant to ORS 183.484. If the court finds that the decision of the State Board of Education is not*
 15 *supported by substantial evidence in the record, the court shall enter a judgment directing the State*
 16 *Board of Education to sponsor the public charter school.*

17 **SECTION 5. The amendments to ORS 338.035, 338.045, 338.055 and 338.075 by sections 1**
 18 **to 4 of this 2011 Act first apply to proposals received on or after the effective date of this**
 19 **2011 Act.**

20 **SECTION 6.** ORS 338.065 is amended to read:

21 338.065. (1) Upon approval of a proposal by a school district board under ORS 338.055, the
 22 school district board shall become the sponsor of the public charter school. The sponsor and appli-
 23 cant shall develop a written charter that contains the provisions of the proposal that have been duly
 24 approved by the sponsor and public charter school governing body. **As provided by ORS 338.055**
 25 **(6),** the sponsor and the applicant may agree to change elements of the proposal prior to incorpo-
 26 rating them into the charter *[or exclude elements of the proposal from the charter]*. The charter, when
 27 duly executed by the sponsor and the public charter school governing body, shall act as the legal
 28 authorization for the establishment of the public charter school. The charter shall be legally binding
 29 on both the sponsor and the public charter school governing body.

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

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

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

35 (c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed
 36 10 years.

37 (4)(a) The renewal of a charter shall use the process required by this section.

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

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

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

44 *[(e) (d) Within [20] 30 days after the public hearing, the sponsor shall approve the renewal of*
 45 *the charter or state in writing the reasons for denying the renewal of the charter.*

1 [(f)] (e) If the sponsor approves the renewal of the charter, the sponsor and the public charter
 2 school governing body shall negotiate a new charter within 90 days after the date on which the
 3 sponsor approved the renewal of the charter unless the sponsor and the public charter school gov-
 4 erning body agree to an extension of the time period.

5 [(g)] (f) If the sponsor does not renew the charter, the public charter school governing body may
 6 address the reasons stated under paragraph [(e)] (d) of this subsection and any remedial measures
 7 suggested by the sponsor and submit a revised request for renewal to the sponsor.

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

11 (5)(a) If the sponsor does not renew the charter based on the revised request for renewal sub-
 12 mitted under subsection [(4)(g)] (4)(f) of this section, the public charter school governing body may
 13 appeal the decision of the sponsor to the State Board of Education for a review of whether the
 14 sponsor used the process required by this section in denying the renewal of the charter.

15 (b) If the board finds that the sponsor used the process required by this section in denying the
 16 request for renewal, the board shall affirm the decision of the sponsor. A public charter school
 17 governing body may seek judicial review of an order of the board pursuant to ORS 183.484.

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

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

23 (e) If the board is the sponsor of a public charter school and the board does not renew the
 24 charter based on the revised request for renewal submitted under subsection [(4)(g)] (4)(f) of this
 25 section, the public charter school governing body may seek judicial review of an order of the board
 26 pursuant to ORS 183.484 for a review of whether the board used the process required by this section
 27 in denying the request for renewal.

28 (6)(a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether
 29 the public charter school:

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

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

32 (C) Is meeting or working toward meeting the student performance goals and agreements spec-
 33 ified in the charter or any other written agreements between the sponsor and the public charter
 34 school governing body;

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

38 (E) Is in compliance with any renewal criteria specified in the charter of the public charter
 39 school.

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

44 **SECTION 7. The amendments to ORS 338.065 by section 6 of this 2011 Act first apply to**
 45 **renewal requests submitted on or after the effective date of this 2011 Act.**

1 **SECTION 8.** ORS 338.105 is amended to read:

2 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the
3 following grounds:

- 4 (a) Failure to meet the terms of an approved charter or this chapter.
- 5 (b) Failure to meet the requirements for student performance stated in the charter.
- 6 (c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.
- 7 (d) Failure to maintain insurance as described in the charter.
- 8 (e) Failure to maintain financial stability.

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

13 (3) A public charter school governing body may appeal any decision of a sponsor **under this**
14 **section. The appeal shall be to** *[that is]*:

15 (a) *[A school district board to]* The State Board of Education, **if the sponsor is a school district**
16 **board.** The State Board of Education shall:

17 **(A) Review only the grounds for termination under this section as stated by the school**
18 **district board; and**

19 **(B) Adopt by rule procedures to ensure a timely appeals process to prevent disruption of**
20 **students' education.**

21 (b) *[The State Board of Education to]* The circuit court pursuant to ORS 183.484, **if the sponsor**
22 **is the State Board of Education.**

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

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

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

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

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

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

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

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

3 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the
4 following grounds:

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

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

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

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

9 (e) Failure to maintain financial stability.

10 (f) Failure to maintain, for two or more consecutive years, a sound financial management system
11 described in the proposal submitted under ORS 338.045 and incorporated into the written charter
12 under ORS 338.065.

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

17 (3) A public charter school governing body may appeal any decision of a sponsor **under this**
18 **section. The appeal shall be to** *[that is]*:

19 (a) *[A school district board to]* The State Board of Education, **if the sponsor is a school district**
20 **board.** The State Board of Education shall:

21 **(A) Review only the grounds for termination under this section as stated by the school**
22 **district board; and**

23 **(B) Adopt by rule procedures to ensure a timely appeals process to prevent disruption of**
24 **students' education.**

25 (b) *[The State Board of Education to]* The circuit court pursuant to ORS 183.484, **if the sponsor**
26 **is the State Board of Education.**

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

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

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

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

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

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

45 (7) A public charter school governing body may only terminate a charter, dissolve or close a

1 public charter school at the end of a semester. If a charter is terminated by the public charter
 2 school governing body or a public charter school is closed or dissolved, the public charter school
 3 governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the
 4 termination, closure or dissolution.

5 **SECTION 10. The amendments to ORS 338.105 by sections 8 and 9 of this 2011 Act first**
 6 **apply to termination decisions that are made on or after the effective date of this 2011 Act.**

7 **SECTION 11.** ORS 338.095 is amended to read:

8 338.095. (1) A public charter school shall report to the sponsor and the State Board of Education
 9 at least annually on the performance of the school and its students. A public charter school shall
 10 disclose in its report information necessary to make a determination of compliance with the re-
 11 quirements of this chapter. The sponsor or the sponsor's designee at least annually shall visit the
 12 public charter school site and review the public charter school's compliance with the terms and
 13 provisions of the charter.

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

18 (a) A copy of the annual audit;

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

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

24 **(3) The sponsor of a public charter school that is organized as required by ORS 338.035**
 25 **(2)(a)(B) and (C) may request at any time an acknowledgment from each member of the**
 26 **public charter school governing body that the member understands the standards of conduct**
 27 **and liabilities of a director of a nonprofit organization, as those standards and liabilities are**
 28 **described in ORS chapter 65.**

29 [(3)] (4) The State Board of Education may require public charter schools to file reports with
 30 the Department of Education as necessary to enable the department to gather information on public
 31 charter schools for inclusion in the Oregon Report Card issued pursuant to ORS 329.115.

32 **SECTION 12.** ORS 338.115, as amended by section 2, chapter 53, Oregon Laws 2010, is amended
 33 to read:

34 338.115. (1) Statutes and rules that apply **only** to school district boards, school districts or other
 35 public schools do not apply to public charter schools. However, the following laws do apply to public
 36 charter schools:

37 [(a) *Federal law*;]

38 [(b) *ORS 192.410 to 192.505 (public records law)*;]

39 [(c) *ORS 192.610 to 192.690 (public meetings law)*;]

40 [(d) *ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law)*;]

41 [(e) *ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks)*;]

42 [(f) *ORS 337.150 (textbooks)*;]

43 [(g) *ORS 339.141, 339.147 and 339.155 (tuition and fees)*;]

44 [(h) *ORS 659.850, 659.855 and 659.860 (discrimination)*;]

45 [(i) *ORS 30.260 to 30.300 (tort claims)*;]

- 1 *[(j) Health and safety statutes and rules;]*
 2 *[(k) Any statute or rule that is listed in the charter;]*
 3 *[(L) The statewide assessment system developed by the Department of Education for mathematics,*
 4 *science and English under ORS 329.485 (2);]*
 5 *[(m) ORS 329.045 (academic content standards and instruction);]*
 6 *[(n) Any statute or rule that establishes requirements for instructional time provided by a school*
 7 *during each day or during a year;]*
 8 *[(o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);]*
 9 *[(p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention*
 10 *and identification of child abuse);]*
 11 *[(q) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certif-*
 12 *icate);]*
 13 *[(r) ORS chapter 657 (Employment Department Law);]*
 14 *[(s) ORS 339.326;]*
 15 *[(t) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and]*
 16 *[(u) This chapter.]*
 17 **(a) Federal law;**
 18 **(b) ORS 30.260 to 30.300 (tort claims);**
 19 **(c) ORS 192.410 to 192.505 (public records law);**
 20 **(d) ORS 192.610 to 192.690 (public meetings law);**
 21 **(e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);**
 22 **(f) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);**
 23 **(g) ORS 329.045 (academic content standards and instruction);**
 24 **(h) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative**
 25 **certificate);**
 26 **(i) The statewide assessment system developed by the Department of Education for**
 27 **mathematics, science and English under ORS 329.485 (2);**
 28 **(j) ORS 337.150 (textbooks);**
 29 **(k) ORS 339.141, 339.147 and 339.155 (tuition and fees);**
 30 **(L) ORS 339.250 (12) (prohibition on infliction of corporal punishment);**
 31 **(m) ORS 339.326 (notice concerning students subject to juvenile court petitions);**
 32 **(n) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on**
 33 **prevention and identification of child abuse);**
 34 **(o) ORS chapters 279A, 279B and 279C (Public Contracting Code);**
 35 **(p) ORS chapter 657 (Employment Department Law);**
 36 **(q) ORS 659.850, 659.855 and 659.860 (discrimination);**
 37 **(r) Any statute or rule that establishes requirements for instructional time provided by**
 38 **a school during each day or during a year;**
 39 **(s) Statutes and rules that expressly apply to public charter schools;**
 40 **(t) Statutes and rules that apply to a special government body, as defined in ORS 174.117,**
 41 **or a public body, as defined in ORS 174.109;**
 42 **(u) Health and safety statutes and rules;**
 43 **(v) Any statute or rule that is listed in the charter;**
 44 **(w) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and**
 45 **(x) This chapter.**

1 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
 2 that apply **only** to school district boards, school districts and other public schools may apply to a
 3 public charter school.

4 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
 5 “public school” include public charter school as those terms are used in that statute or rule.

6 (4) A public charter school may not violate the Establishment Clause of the First Amendment
 7 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
 8 based.

9 (5) A public charter school shall maintain an active enrollment of at least 25 students.

10 (6) A public charter school may sue or be sued as a separate legal entity.

11 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
 12 and employees of a sponsor acting in their official capacities are immune from civil liability with
 13 respect to all activities related to a public charter school within the scope of their duties or em-
 14 ployment.

15 (8) A public charter school may enter into contracts and may lease facilities and services from
 16 a school district, education service district, state institution of higher education, other governmental
 17 unit or any person or legal entity.

18 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
 19 ability.

20 (10) A public charter school may receive and accept gifts, grants and donations from any source
 21 for expenditure to carry out the lawful functions of the school.

22 (11) The school district in which the public charter school is located shall offer a high school
 23 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
 24 school student who meets the district’s and state’s standards for a high school diploma, a modified
 25 diploma, an extended diploma or an alternative certificate.

26 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
 27 issued by a public charter school grants to the holder the same rights and privileges as a high
 28 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
 29 nonchartered public school.

30 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
 31 sponsor as specified in the charter.

32 (14) A public charter school may receive services from an education service district in the same
 33 manner as a nonchartered public school in the school district in which the public charter school is
 34 located.

35 **SECTION 13.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section
 36 12, chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, and section 3, chapter
 37 53, Oregon Laws 2010, is amended to read:

38 338.115. (1) Statutes and rules that apply **only** to school district boards, school districts or other
 39 public schools do not apply to public charter schools. However, the following laws do apply to public
 40 charter schools:

41 [(a) *Federal law*;]

42 [(b) *ORS 192.410 to 192.505 (public records law)*;]

43 [(c) *ORS 192.610 to 192.690 (public meetings law)*;]

44 [(d) *ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law)*;]

45 [(e) *ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks)*;]

- 1 *[(f) ORS 337.150 (textbooks);]*
2 *[(g) ORS 339.141, 339.147 and 339.155 (tuition and fees);]*
3 *[(h) ORS 659.850, 659.855 and 659.860 (discrimination);]*
4 *[(i) ORS 30.260 to 30.300 (tort claims);]*
5 *[(j) Health and safety statutes and rules;]*
6 *[(k) Any statute or rule that is listed in the charter;]*
7 *[(L) The statewide assessment system developed by the Department of Education for mathematics,*
8 *science and English under ORS 329.485 (2);]*
9 *[(m) ORS 329.045 (academic content standards and instruction);]*
10 *[(n) ORS 329.496 (physical education);]*
11 *[(o) Any statute or rule that establishes requirements for instructional time provided by a school*
12 *during each day or during a year;]*
13 *[(p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);]*
14 *[(q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention*
15 *and identification of child abuse);]*
16 *[(r) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certif-*
17 *icate);]*
18 *[(s) ORS chapter 657 (Employment Department Law);]*
19 *[(t) ORS 339.326;]*
20 *[(u) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and]*
21 *[(v) This chapter.]*
22 **(a) Federal law;**
23 **(b) ORS 30.260 to 30.300 (tort claims);**
24 **(c) ORS 192.410 to 192.505 (public records law);**
25 **(d) ORS 192.610 to 192.690 (public meetings law);**
26 **(e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);**
27 **(f) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);**
28 **(g) ORS 329.045 (academic content standards and instruction);**
29 **(h) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative**
30 **certificate);**
31 **(i) ORS 329.496 (physical education);**
32 **(j) The statewide assessment system developed by the Department of Education for**
33 **mathematics, science and English under ORS 329.485 (2);**
34 **(k) ORS 337.150 (textbooks);**
35 **(L) ORS 339.141, 339.147 and 339.155 (tuition and fees);**
36 **(m) ORS 339.250 (12) (prohibition on infliction of corporal punishment);**
37 **(n) ORS 339.326 (notice concerning students subject to juvenile court petitions);**
38 **(o) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on**
39 **prevention and identification of child abuse);**
40 **(p) ORS chapters 279A, 279B and 279C (Public Contracting Code);**
41 **(q) ORS chapter 657 (Employment Department Law);**
42 **(r) ORS 659.850, 659.855 and 659.860 (discrimination);**
43 **(s) Any statute or rule that establishes requirements for instructional time provided by**
44 **a school during each day or during a year;**
45 **(t) Statutes and rules that expressly apply to public charter schools;**

1 (u) Statutes and rules that apply to a special government body, as defined in ORS 174.117,
 2 or a public body, as defined in ORS 174.109;

3 (v) Health and safety statutes and rules;

4 (w) Any statute or rule that is listed in the charter;

5 (x) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and

6 (y) This chapter.

7 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
 8 that apply **only** to school district boards, school districts and other public schools may apply to a
 9 public charter school.

10 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
 11 “public school” include public charter school as those terms are used in that statute or rule.

12 (4) A public charter school may not violate the Establishment Clause of the First Amendment
 13 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
 14 based.

15 (5) A public charter school shall maintain an active enrollment of at least 25 students.

16 (6) A public charter school may sue or be sued as a separate legal entity.

17 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
 18 and employees of a sponsor acting in their official capacities are immune from civil liability with
 19 respect to all activities related to a public charter school within the scope of their duties or em-
 20 ployment.

21 (8) A public charter school may enter into contracts and may lease facilities and services from
 22 a school district, education service district, state institution of higher education, other governmental
 23 unit or any person or legal entity.

24 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
 25 ability.

26 (10) A public charter school may receive and accept gifts, grants and donations from any source
 27 for expenditure to carry out the lawful functions of the school.

28 (11) The school district in which the public charter school is located shall offer a high school
 29 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
 30 school student who meets the district’s and state’s standards for a high school diploma, a modified
 31 diploma, an extended diploma or an alternative certificate.

32 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
 33 issued by a public charter school grants to the holder the same rights and privileges as a high
 34 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
 35 nonchartered public school.

36 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
 37 sponsor as specified in the charter.

38 (14) A public charter school may receive services from an education service district in the same
 39 manner as a nonchartered public school in the school district in which the public charter school is
 40 located.

41 **SECTION 14.** ORS 338.025, as amended by section 4, chapter 53, Oregon Laws 2010, and section
 42 3, chapter 72, Oregon Laws 2010, is amended to read:

43 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
 44 of this chapter. The rules shall follow the intent of this chapter.

45 (2) Upon application by a public charter school, the State Board of Education may grant a

1 waiver of any provision of this chapter if the waiver promotes the development of programs by
2 providers, enhances the equitable access by underserved families to the public education of their
3 choice, extends the equitable access to public support by all students or permits high quality pro-
4 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
5 chapter or any provision under ORS 338.115 (1)(a) to [(t)] (**w**) or 338.120.

6 **SECTION 15.** ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, section
7 14, chapter 50, Oregon Laws 2008, section 5, chapter 53, Oregon Laws 2010, and section 4, chapter
8 72, Oregon Laws 2010, is amended to read:

9 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
10 of this chapter. The rules shall follow the intent of this chapter.

11 (2) Upon application by a public charter school, the State Board of Education may grant a
12 waiver of any provision of this chapter if the waiver promotes the development of programs by
13 providers, enhances the equitable access by underserved families to the public education of their
14 choice, extends the equitable access to public support by all students or permits high quality pro-
15 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
16 chapter or any provision under ORS 338.115 (1)(a) to [(u)] (**x**) or 338.120.

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