

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2150**

1 On page 1 of the printed bill, line 2, after “ORS” insert “279A.025,”.

2 On page 13, delete lines 44 and 45 and delete pages 14 through 17 and  
3 insert:

4 **“SECTION 13.** ORS 338.115, as amended by section 9, chapter 92, Oregon  
5 Laws 2012, is amended to read:

6 “338.115. (1) Statutes and rules that apply **only** to school district boards,  
7 school districts or other public schools do not apply to public charter  
8 schools. However, the following laws do apply to public charter schools:

9 “(a) Federal law;

10 “(b) ORS 30.260 to 30.300 (tort claims);

11 “(c) ORS 192.410 to 192.505 (public records law);

12 “(d) ORS 192.610 to 192.690 (public meetings law);

13 “(e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

14 “(f) ORS 326.565, 326.575 and 326.580 (student records);

15 “(g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records  
16 checks);

17 “(h) ORS 329.045 (academic content standards and instruction);

18 “(i) ORS 329.451 (high school diploma, modified diploma, extended diploma  
19 and alternative certificate);

20 “(j) The statewide assessment system developed by the Department of  
21 Education for mathematics, science and English under ORS 329.485 (2);

22 “(k) ORS 337.150 (textbooks);

1       “(L) **ORS 339.119 (consideration for educational services);**  
2       “[(L)] (m) ORS 339.141, 339.147 and 339.155 (tuition and fees);  
3       “[(m)] (n) ORS 339.250 (12) (prohibition on infliction of corporal punish-  
4 ment);  
5       “[(n)] (o) ORS 339.326 (notice concerning students subject to juvenile  
6 court petitions);  
7       “[(o)] (p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and  
8 sexual conduct and training on prevention and identification of abuse and  
9 sexual conduct);  
10       “[(p)] (q) ORS chapter 657 (Employment Department Law);  
11       “[(q)] (r) ORS 659.850, 659.855 and 659.860 (discrimination);  
12       “[(r)] (s) Any statute or rule that establishes requirements for instruc-  
13 tional time provided by a school during each day or during a year;  
14       “(t) **Statutes and rules that expressly apply to public charter**  
15 **schools;**  
16       “(u) **Statutes and rules that apply to a special government body,**  
17 **as defined in ORS 174.117, or a public body, as defined in ORS 174.109;**  
18       “[(s)] (v) Health and safety statutes and rules;  
19       “[(t)] (w) Any statute or rule that is listed in the charter; **and**  
20       “[(u) *ORS 339.119 (consideration for educational services); and*]  
21       “[(v)] (x) This chapter.  
22       “(2) Notwithstanding subsection (1) of this section, a charter may specify  
23 that statutes and rules that apply **only** to school district boards, school dis-  
24 tricts and other public schools may apply to a public charter school.  
25       “(3) If a statute or rule applies to a public charter school, then the terms  
26 ‘school district’ and ‘public school’ include public charter school as those  
27 terms are used in that statute or rule.  
28       “(4) A public charter school may not violate the Establishment Clause of  
29 the First Amendment to the United States Constitution or section 5, Article  
30 I of the Oregon Constitution, or be religion based.

1       “(5)(a) A public charter school shall maintain an active enrollment of at  
2 least 25 students.

3       “(b) For a public charter school that provides educational services under  
4 a cooperative agreement described in ORS 338.080, the public charter school  
5 is in compliance with the requirements of this subsection if the public  
6 charter school provides educational services under the cooperative agreement  
7 to at least 25 students, without regard to the school districts in which the  
8 students are residents.

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

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

15       “(8) A public charter school may enter into contracts and may lease fa-  
16 cilities and services from a school district, education service district, public  
17 university listed in ORS 352.002, other governmental unit or any person or  
18 legal entity.

19       “(9) A public charter school may not levy taxes or issue bonds under  
20 which the public incurs liability.

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

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

29       “(12) A high school diploma, a modified diploma, an extended diploma or  
30 an alternative certificate issued by a public charter school grants to the

1 holder the same rights and privileges as a high school diploma, a modified  
2 diploma, an extended diploma or an alternative certificate issued by a non-  
3 chartered public school.

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

6 “(14) A public charter school may receive services from an education  
7 service district in the same manner as a nonchartered public school in the  
8 school district in which the public charter school is located.

9 **“SECTION 14.** ORS 338.115, as amended by section 7, chapter 839, Oregon  
10 Laws 2007, section 12, chapter 50, Oregon Laws 2008, section 4, chapter 618,  
11 Oregon Laws 2009, section 3, chapter 53, Oregon Laws 2010, section 3, chap-  
12 ter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws 2011, section  
13 5, chapter 682, Oregon Laws 2011, and section 10, chapter 92, Oregon Laws  
14 2012, is amended to read:

15 “338.115. (1) Statutes and rules that apply **only** to school district boards,  
16 school districts or other public schools do not apply to public charter  
17 schools. However, the following laws do apply to public charter schools:

18 “(a) Federal law;

19 “(b) ORS 30.260 to 30.300 (tort claims);

20 “(c) ORS 192.410 to 192.505 (public records law);

21 “(d) ORS 192.610 to 192.690 (public meetings law);

22 “(e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

23 “(f) ORS 326.565, 326.575 and 326.580 (student records);

24 “(g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records  
25 checks);

26 “(h) ORS 329.045 (academic content standards and instruction);

27 “(i) ORS 329.451 (high school diploma, modified diploma, extended diploma  
28 and alternative certificate);

29 “(j) ORS 329.496 (physical education);

30 “(k) The statewide assessment system developed by the Department of

1 Education for mathematics, science and English under ORS 329.485 (2);  
2 “(L) ORS 337.150 (textbooks);  
3 “**(m) ORS 339.119 (consideration for educational services);**  
4 “[*m*] **(n)** ORS 339.141, 339.147 and 339.155 (tuition and fees);  
5 “[*n*] **(o)** ORS 339.250 (12) (prohibition on infliction of corporal punish-  
6 ment);  
7 “[*o*] **(p)** ORS 339.326 (notice concerning students subject to juvenile  
8 court petitions);  
9 “[*p*] **(q)** ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and  
10 sexual conduct and training on prevention and identification of abuse and  
11 sexual conduct);  
12 “[*q*] **(r)** ORS chapter 657 (Employment Department Law);  
13 “[*r*] **(s)** ORS 659.850, 659.855 and 659.860 (discrimination);  
14 “[*s*] **(t)** Any statute or rule that establishes requirements for instruc-  
15 tional time provided by a school during each day or during a year;  
16 “**(u) Statutes and rules that expressly apply to public charter**  
17 **schools;**  
18 “**(v) Statutes and rules that apply to a special government body, as**  
19 **defined in ORS 174.117, or a public body, as defined in ORS 174.109;**  
20 “[*t*] **(w)** Health and safety statutes and rules;  
21 “[*u*] **(x)** Any statute or rule that is listed in the charter; **and**  
22 “[*v*] *ORS 339.119 (consideration for educational services); and*  
23 “[*w*] **(y)** This chapter.  
24 “(2) Notwithstanding subsection (1) of this section, a charter may specify  
25 that statutes and rules that apply **only** to school district boards, school dis-  
26 tricts and other public schools may apply to a public charter school.  
27 “(3) If a statute or rule applies to a public charter school, then the terms  
28 ‘school district’ and ‘public school’ include public charter school as those  
29 terms are used in that statute or rule.  
30 “(4) A public charter school may not violate the Establishment Clause of

1 the First Amendment to the United States Constitution or section 5, Article  
2 I of the Oregon Constitution, or be religion based.

3 “(5)(a) A public charter school shall maintain an active enrollment of at  
4 least 25 students.

5 “(b) For a public charter school that provides educational services under  
6 a cooperative agreement described in ORS 338.080, the public charter school  
7 is in compliance with the requirements of this subsection if the public  
8 charter school provides educational services under the cooperative agreement  
9 to at least 25 students, without regard to the school districts in which the  
10 students are residents.

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

12 “(7) The sponsor, members of the governing board of the sponsor acting  
13 in their official capacities and employees of a sponsor acting in their official  
14 capacities are immune from civil liability with respect to all activities re-  
15 lated to a public charter school within the scope of their duties or employ-  
16 ment.

17 “(8) A public charter school may enter into contracts and may lease fa-  
18 cilities and services from a school district, education service district, public  
19 university listed in ORS 352.002, other governmental unit or any person or  
20 legal entity.

21 “(9) A public charter school may not levy taxes or issue bonds under  
22 which the public incurs liability.

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

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

1       “(12) A high school diploma, a modified diploma, an extended diploma or  
2 an alternative certificate issued by a public charter school grants to the  
3 holder the same rights and privileges as a high school diploma, a modified  
4 diploma, an extended diploma or an alternative certificate issued by a non-  
5 chartered public school.

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

8       “(14) A public charter school may receive services from an education  
9 service district in the same manner as a nonchartered public school in the  
10 school district in which the public charter school is located.

11       **“SECTION 15.** ORS 338.025 is amended to read:

12       “338.025. (1) The State Board of Education may adopt any rules necessary  
13 for the implementation of this chapter. The rules shall follow the intent of  
14 this chapter.

15       “(2) Upon application by a public charter school, the State Board of Ed-  
16 ucation may grant a waiver of any provision of this chapter if the waiver  
17 promotes the development of programs by providers, enhances the equitable  
18 access by underserved families to the public education of their choice, ex-  
19 tends the equitable access to public support by all students or permits high  
20 quality programs of unusual cost. The State Board of Education may not  
21 waive any appeal provision in this chapter or any provision under ORS  
22 338.115 (1)(a) to [(u)] (w), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

23       **“SECTION 16.** ORS 338.025, as amended by section 8, chapter 839, Oregon  
24 Laws 2007, section 14, chapter 50, Oregon Laws 2008, section 5, chapter 53,  
25 Oregon Laws 2010, section 4, chapter 72, Oregon Laws 2010, section 5, chap-  
26 ter 94, Oregon Laws 2011, section 4, chapter 649, Oregon Laws 2011, and  
27 section 27, chapter 718, Oregon Laws 2011, is amended to read:

28       “338.025. (1) The State Board of Education may adopt any rules necessary  
29 for the implementation of this chapter. The rules shall follow the intent of  
30 this chapter.

1 “(2) Upon application by a public charter school, the State Board of Ed-  
2 ucation may grant a waiver of any provision of this chapter if the waiver  
3 promotes the development of programs by providers, enhances the equitable  
4 access by underserved families to the public education of their choice, ex-  
5 tends the equitable access to public support by all students or permits high  
6 quality programs of unusual cost. The State Board of Education may not  
7 waive any appeal provision in this chapter or any provision under ORS  
8 338.115 (1)(a) to [(v)] (x), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

9 **“SECTION 17.** ORS 279A.025 is amended to read:

10 “279A.025. (1) Except as provided in subsections (2) to (4) of this section,  
11 the Public Contracting Code applies to all public contracting.

12 “(2) The Public Contracting Code does not apply to:

13 “(a) Contracts between a contracting agency and:

14 “(A) Another contracting agency;

15 “(B) The Oregon Health and Science University;

16 “(C) The Oregon State Bar;

17 “(D) A governmental body of another state;

18 “(E) The federal government;

19 “(F) An American Indian tribe or an agency of an American Indian tribe;

20 “(G) A nation, or a governmental body in a nation, other than the United  
21 States; or

22 “(H) An intergovernmental entity formed between or among:

23 “(i) Governmental bodies of this or another state;

24 “(ii) The federal government;

25 “(iii) An American Indian tribe or an agency of an American Indian tribe;

26 “(iv) A nation other than the United States; or

27 “(v) A governmental body in a nation other than the United States;

28 “(b) Agreements authorized by ORS chapter 190 or by a statute, charter  
29 provision, ordinance or other authority for establishing agreements between  
30 or among governmental bodies or agencies or tribal governing bodies or



1 agencies;

2 “(c) Insurance and service contracts as provided for under ORS 414.115,  
3 414.125, 414.135 and 414.145 for purposes of source selection;

4 “(d) Grants;

5 “(e) Contracts for professional or expert witnesses or consultants to pro-  
6 vide services or testimony relating to existing or potential litigation or legal  
7 matters in which a public body is or may become interested;

8 “(f) Acquisitions or disposals of real property or interest in real property;

9 “(g) Sole-source expenditures when rates are set by law or ordinance for  
10 purposes of source selection;

11 “(h) Contracts for the procurement or distribution of textbooks;

12 “(i) Procurements by a contracting agency from an Oregon Corrections  
13 Enterprises program;

14 “(j) The procurement, transportation or distribution of distilled liquor, as  
15 defined in ORS 471.001, or the appointment of agents under ORS 471.750 by  
16 the Oregon Liquor Control Commission;

17 “(k) Contracts entered into under ORS chapter 180 between the Attorney  
18 General and private counsel or special legal assistants;

19 “(L) Contracts for the sale of timber from lands owned or managed by the  
20 State Board of Forestry and the State Forestry Department;

21 “(m) Contracts for forest protection or forest related activities, as de-  
22 scribed in ORS 477.406, by the State Forester or the State Board of Forestry;

23 “(n) Sponsorship agreements entered into by the State Parks and Recre-  
24 ation Director in accordance with ORS 565.080 (4);

25 “(o) Contracts entered into by the Housing and Community Services De-  
26 partment in exercising the department’s duties prescribed in ORS chapters  
27 456 and 458, except that the department’s public contracting for goods and  
28 services is subject to ORS chapter 279B;

29 “(p) Contracts entered into by the State Treasurer in exercising the  
30 powers of that office prescribed in ORS chapters 178, 286A, 287A, 289, 293,

1 294 and 295, including but not limited to investment contracts and agree-  
2 ments, banking services, clearing house services and collateralization agree-  
3 ments, bond documents, certificates of participation and other debt  
4 repayment agreements, and any associated contracts, agreements and docu-  
5 ments, regardless of whether the obligations that the contracts, agreements  
6 or documents establish are general, special or limited, except that the State  
7 Treasurer’s public contracting for goods and services is subject to ORS  
8 chapter 279B;

9 “(q) Contracts, agreements or other documents entered into, issued or es-  
10 tablished in connection with:

11 “(A) The issuance of obligations, as defined in ORS 286A.100 and  
12 287A.310, of a public body;

13 “(B) The making of program loans and similar extensions or advances of  
14 funds, aid or assistance by a public body to a public or private body for the  
15 purpose of carrying out, promoting or sustaining activities or programs au-  
16 thorized by law; or

17 “(C) The investment of funds by a public body as authorized by law, and  
18 other financial transactions of a public body that by their character cannot  
19 practically be established under the competitive contractor selection proce-  
20 dures of ORS 279B.050 to 279B.085;

21 “(r) Contracts for employee benefit plans as provided in ORS 243.105 (1),  
22 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565;

23 “(s) Contracts for employee benefit plans as provided in ORS 243.860 to  
24 243.886; or

25 “(t) Any other public contracting of a public body specifically exempted  
26 from the code by another provision of law.

27 “(3) The Public Contracting Code does not apply to the contracting ac-  
28 tivities of:

29 “(a) The Oregon State Lottery Commission;

30 “(b) The Oregon University System and member public universities, ex-

1 cept as provided in ORS 351.086;  
2 “(c) The legislative department;  
3 “(d) The judicial department;  
4 “(e) Semi-independent state agencies listed in ORS 182.454, except as  
5 provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;  
6 “(f) Oregon Corrections Enterprises;  
7 “(g) The Oregon Film and Video Office, except as provided in ORS  
8 279A.100 and 279A.250 to 279A.290;  
9 “(h) The Travel Information Council, except as provided in ORS 279A.250  
10 to 279A.290;  
11 “(i) The Oregon 529 College Savings Network and the Oregon 529 College  
12 Savings Board;  
13 “(j) The Oregon Innovation Council;  
14 “(k) The Oregon Utility Notification Center; [*or*]  
15 “**(L) A public charter school established under ORS chapter 338; or**  
16 “[*L*] **(m)** Any other public body specifically exempted from the code by  
17 another provision of law.  
18 “(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to  
19 contracts made with qualified nonprofit agencies providing employment op-  
20 portunities for individuals with disabilities under ORS 279.835 to 279.855.”  
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