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# MEMORANDUM

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**To:** Members of the Education Subcommittee

**From:** Doug Wilson, Legislative Fiscal Office  
(503) 986-1837

**Date:** June 26, 2013

**Subject:** HB 3401-A-- Work Session Recommendations

## **Background Information**

HB 3401-A allows certain school district boards (ESD specific) to request that monies otherwise expended on services or programs approved by component school district of education services district (ESD) be distributed to school district for any identified purpose. The school districts eligible to make the requests are the districts that are members of the ESDs in regions 1 (Clatsop, Columbia Tillamook and Washington counties), 5 (Lane), and 9 (Hood River and Wasco). The first year that a request could be made is the 2014-15 school year.

The bill also establishes the process for making the request and also requires the ESD to distribute the funds based on the weighted average daily membership of the district from which the request was made. If the district makes a request under the bill and designates a distribution of between 50% and 100%, the school district may only act in an advisory capacity. If the designation is 100%, the school district is considered withdrawn from the ESD.

The bill also establishes the Education Service District Portability Stability Account to assist ESDs when significant amounts have been requested to be sent to school districts but is repealed at the end of the 2013-15 biennium. Districts that request distribution from the ESD are required to report to the legislature.

## **Recommended Changes HB 3401-A:**

LFO recommends one amendment (A13) which replaces the language of the bill and generally phase-in the amounts that school districts may request. Based on the amendment:

- For the 2014-15 school year, school districts may request up to 65% of the formula distribution for ESDs attributable to the requesting district or up to 75% if the school district is able to provide evidence that the additional amount will be spent on services purchased from other ESDs; and
- For the 2015-16 school year the amounts are increased to 75% and 85%; and
- Starting in the 2016-17 school year, there are no limits.

As with the A Engrossed version of bill, a school district must make the request by November 1<sup>st</sup> of the prior school year; and the ESD must approve the request and determine the amount to be distributed based on the ADM of the requesting district. The moneys distributed from the ESD to the school district may be used for any purpose identified by the school district board. The requesting school district may only act in an advisory capacity in the governance of the ESD when its requested distribution is greater than 50%. Once a school district receives 100% of the attributable amount it is considered to have withdrawn from the ESD. No Education Service District Portability Stability Account is established in the amendment.

The amendment also requires a workgroup convened by the President and Speaker to explore options for “optimal” regional education delivery system and report back to the interim committees on education by November 20, 2013. The workgroup consists of two members of each legislative body appointed by the presiding officer and six other representatives of various education groups jointly appointed by the President and Speaker.

*Sen. /Rep. \_\_\_\_\_ moves the –13 amendment to HB 3401-A.*

**HB 3401 Final Subcommittee Action:**

***Final Motion:***

*Sen./Rep. \_\_\_\_\_ moves HB 3401 to the full committee as amended with a “do pass” recommendation.*

**REVENUE: Revenue statement issued**

**FISCAL: Fiscal statement issued**

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<b>Action:</b>	Do Pass as Amended and Rescind the Subsequent Referral to the Committee on Revenue and Be Referred to the Committee on Ways and Means
<b>Vote:</b>	5 - 3 - 1
<b>Yeas:</b>	Fagan, Gomberg, Gorsek, Reardon, Gelser
<b>Nays:</b>	Huffman, Parrish, Whisnant
<b>Exc.:</b>	Sprenger
<b>Prepared By:</b>	Rick Berkobien, Administrator
<b>Meeting Dates:</b>	4/1, 4/12

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**WHAT THE MEASURE DOES:** Allows certain school district boards to request in writing that monies otherwise expended on services or programs approved by component school district of education service district (ESD) be distributed to school district for any identified purpose. Requires school district board when making request to designate percentage of monies distributed to school district by November 1 of the year prior to the school year for which the request is being made. Provides that ESD board approve request submitted and make distribution amounts based on weighted average daily membership of district for which request was made. Provides for each year school district receives distribution, may only act in an advisory capacity if the school district board designates a percentage greater than or equal to 50 but less than 100 percent. Establishes that school district is considered withdrawn from ESD if school district board designates percentage that is 100 percent. Allows certain school district boards to make request by June 2013 to receive distributions for the 2013-2014 school year. Requires certain representatives of ESDs and school districts to submit a report to interim legislative committees no later November 1, 2016. Establishes Education Service District Portability Stability Account in the State Treasury, separate from the General Fund.

**ISSUES DISCUSSED:**

- Lane ESD
- Impact of measure on various ESDs
- Concerns with equity

**EFFECT OF COMMITTEE AMENDMENT:** Replaces measure.

**BACKGROUND:** In 1945 the Oregon Legislature created the county “rural school district,” the precursor to the modern Education Service District, or ESD. Today there are 19 ESDs in Oregon’s 36 counties. ESDs in Oregon are funded through multiple funding sources: Property taxes, state and federal contracts and grants, state timber receipts, and the State School Fund (SSF) formula. An ESD's General Fund funding comes from a set amount per ADMw (Average Daily Membership weighted). This amount is made up of property taxes at a unique permanent tax rate. Other general fund sources are state timber tax receipts and the Oregon State School Funds (SSF). According to the Oregon Department of Education statistics, the total SSF for ESDs in Oregon is approximately \$200 million, which comprises 4.5 percent of the total K-12 apportionment. Under current law, each ESD must spend at least 90 percent of their total SSF funds directly on school district programs or services. The other 10 percent is allocated for the operation of the ESD. Each ESD, in partnership with their component school districts, must annually develop a Local Service Plan, which determines how the SSF will be used. The Local Service Plan determines programs and services that the ESD will offer its component districts for the following fiscal year.

4/16/2013 11:44:00 AM

*This summary has not been adopted or officially endorsed by action of the committee.*

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3401**

1 On page 1 of the printed A-engrossed bill, line 2, delete “appropriat”.

2 In line 3, delete “ing money;”.

3 Delete lines 5 through 22 and delete pages 2 and 3 and insert:

4 **“SECTION 1.** ORS 334.177 is amended to read:

5 “334.177. (1) As used in this section, ‘local revenues of an education ser-  
6 vice district’ has the meaning given that term in ORS 327.019 but does not  
7 include any local revenues distributed under ORS 327.019 (8).

8 “(2) An education service district board shall expend at least 90 percent  
9 of all amounts received from the State School Fund and at least 90 percent  
10 of all amounts considered to be local revenues of an education service dis-  
11 trict on services or programs that have been approved by the component  
12 school districts of the education service district through the resolution pro-  
13 cess described in ORS 334.175.

14 **“(3)(a) Notwithstanding subsection (2) of this section, the school**  
15 **district board of a school district that is located in a region described**  
16 **in ORS 334.013 (1)(a), (e) or (i) may request in writing that a percent-**  
17 **age of the amounts identified in subsection (2) of this section be dis-**  
18 **tributed to the school district for any purpose identified by the school**  
19 **district board. The percentage requested as provided by this paragraph**  
20 **may not exceed:**

21 **“(A) Sixty-five percent of all amounts received from the State**  
22 **School Fund and attributable to the school district and 65 percent of**

1 all amounts considered to be local revenues of the education service  
2 district and attributable to the school district; or

3 “(B) Seventy-five percent of all amounts received from the State  
4 School Fund and attributable to the school district and 75 percent of  
5 all amounts considered to be local revenues of the education service  
6 district and attributable to the school district, if the school district  
7 board is able to provide evidence that the school district meets the  
8 expenditure requirement described in paragraph (b) of this subsection.

9 “(b) A school district board may request the percentage identified  
10 in paragraph (a)(B) of this subsection if the school district expends at  
11 least the difference between paragraph (a)(B) of this subsection and  
12 paragraph (a)(A) of this subsection on services from one or more ed-  
13 ucation service districts other than the education service district in  
14 which the school district is located.

15 “(c) A school district board that makes a request under paragraph  
16 (a) of this subsection:

17 “(A) Must make the request to the education service district board  
18 by November 1 of the year prior to the school year for which the re-  
19 quest is being made; and

20 “(B) Must designate the percentage of the amounts identified in  
21 subsection (2) of this section that will be distributed to the school  
22 district.

23 “(d) The education service district board:

24 “(A) Shall approve a request submitted as provided by this sub-  
25 section; and

26 “(B) Shall determine the amounts attributable to the school district  
27 and eligible for distribution based on the weighted average daily  
28 membership (ADMw) of the school district for which the request was  
29 made.

30 “(e) For each school year for which a school district receives a

1 **distribution as provided by this subsection, the school district may act**  
2 **only in an advisory capacity for decisions made in relation to the**  
3 **governance of the education service district if the school district board**  
4 **designates a percentage under paragraph (a) of this subsection that is**  
5 **greater than 50 percent.**

6 “[3] (4) An education service district board shall expend 100 percent of  
7 all amounts received from the School Improvement Fund on services or pro-  
8 grams that have been approved by the component school districts of the ed-  
9 ucation service district through the resolution process described in ORS  
10 334.175.

11 “[4] (5) The expenditure requirements of this section apply only to  
12 amounts retained by the education service district after making any distrib-  
13 utions required under ORS 327.019 (9).

14 **“SECTION 2. The amendments to ORS 334.177 by section 1 of this**  
15 **2013 Act first apply to expenditures occurring for the 2014-2015 school**  
16 **year.**

17 **“SECTION 3.** ORS 334.177, as amended by section 1 of this 2013 Act, is  
18 amended to read:

19 “334.177. (1) As used in this section, ‘local revenues of an education ser-  
20 vice district’ has the meaning given that term in ORS 327.019 but does not  
21 include any local revenues distributed under ORS 327.019 (8).

22 “(2) An education service district board shall expend at least 90 percent  
23 of all amounts received from the State School Fund and at least 90 percent  
24 of all amounts considered to be local revenues of an education service dis-  
25 trict on services or programs that have been approved by the component  
26 school districts of the education service district through the resolution pro-  
27 cess described in ORS 334.175.

28 “(3)(a) Notwithstanding subsection (2) of this section, the school district  
29 board of a school district that is located in a region described in ORS 334.013  
30 (1)(a), (e) or (i) may request in writing that a percentage of the amounts

1 identified in subsection (2) of this section be distributed to the school district  
2 for any purpose identified by the school district board. The percentage re-  
3 quested as provided by this paragraph may not exceed:

4 “(A) [*Sixty-five*] **Seventy-five** percent of all amounts received from the  
5 State School Fund and attributable to the school district and [*65*] **75** percent  
6 of all amounts considered to be local revenues of the education service dis-  
7 trict and attributable to the school district; or

8 “(B) [*Seventy-five*] **Eighty-five** percent of all amounts received from the  
9 State School Fund and attributable to the school district and [*75*] **85** percent  
10 of all amounts considered to be local revenues of the education service dis-  
11 trict and attributable to the school district, if the school district board is  
12 able to provide evidence that the school district meets the expenditure re-  
13 quirement described in paragraph (b) of this subsection.

14 “(b) A school district board may request the percentage identified in  
15 paragraph (a)(B) of this subsection if the school district expends at least the  
16 difference between paragraph (a)(B) of this subsection and paragraph (a)(A)  
17 of this subsection on services from one or more education service districts  
18 other than the education service district in which the school district is lo-  
19 cated.

20 “(c) A school district board that makes a request under paragraph (a) of  
21 this subsection:

22 “(A) Must make the request to the education service district board by  
23 November 1 of the year prior to the school year for which the request is  
24 being made; and

25 “(B) Must designate the percentage of the amounts identified in sub-  
26 section (2) of this section that will be distributed to the school district.

27 “(d) The education service district board:

28 “(A) Shall approve a request submitted as provided by this subsection; and

29 “(B) Shall determine the amounts attributable to the school district and  
30 eligible for distribution based on the weighted average daily membership

1 (ADMw) of the school district for which the request was made.

2 “(e) For each school year for which a school district receives a distrib-  
3 ution as provided by this subsection, the school district may act only in an  
4 advisory capacity for decisions made in relation to the governance of the  
5 education service district if the school district board designates a percentage  
6 under paragraph (a) of this subsection that is greater than 50 percent.

7 “(4) An education service district board shall expend 100 percent of all  
8 amounts received from the School Improvement Fund on services or pro-  
9 grams that have been approved by the component school districts of the ed-  
10 ucation service district through the resolution process described in ORS  
11 334.175.

12 “(5) The expenditure requirements of this section apply only to amounts  
13 retained by the education service district after making any distributions re-  
14 quired under ORS 327.019 (9).

15 **“SECTION 4. (1) The amendments to ORS 334.177 by section 3 of this**  
16 **2013 Act become operative July 1, 2015.**

17 **“(2) The amendments to ORS 334.177 by section 3 of this 2013 Act**  
18 **first apply to expenditures occurring for the 2015-2016 school year.**

19 **“SECTION 5. ORS 334.177, as amended by sections 1 and 3 of this 2013**  
20 **Act, is amended to read:**

21 “334.177. (1) As used in this section, ‘local revenues of an education ser-  
22 vice district’ has the meaning given that term in ORS 327.019 but does not  
23 include any local revenues distributed under ORS 327.019 (8).

24 “(2) An education service district board shall expend at least 90 percent  
25 of all amounts received from the State School Fund and at least 90 percent  
26 of all amounts considered to be local revenues of an education service dis-  
27 trict on services or programs that have been approved by the component  
28 school districts of the education service district through the resolution pro-  
29 cess described in ORS 334.175.

30 “(3)(a) Notwithstanding subsection (2) of this section, the school district



1 board of a school district that is located in a region described in ORS 334.013  
2 (1)(a), (e) or (i) may request in writing that a percentage of the amounts  
3 identified in subsection (2) of this section be distributed to the school district  
4 for any purpose identified by the school district board. [*The percentage re-*  
5 *quested as provided by this paragraph may not exceed.*]

6 “[(A) *Seventy-five percent of all amounts received from the State School*  
7 *Fund and attributable to the school district and 75 percent of all amounts*  
8 *considered to be local revenues of the education service district and attribut-*  
9 *able to the school district; or]*

10 “[(B) *Eighty-five percent of all amounts received from the State School*  
11 *Fund and attributable to the school district and 85 percent of all amounts*  
12 *considered to be local revenues of the education service district and attribut-*  
13 *able to the school district, if the school district board is able to provide evi-*  
14 *dence that the school district meets the expenditure requirement described in*  
15 *paragraph (b) of this subsection.*]

16 “[(b) *A school district board may request the percentage identified in par-*  
17 *agraph (a)(B) of this subsection if the school district expends at least the dif-*  
18 *ference between paragraph (a)(B) of this subsection and paragraph (a)(A) of*  
19 *this subsection on services from one or more education service districts other*  
20 *than the education service district in which the school district is located.*]

21 “[(c)] (b) A school district board that makes a request under paragraph  
22 (a) of this subsection:

23 “(A) Must make the request to the education service district board by  
24 November 1 of the year prior to the school year for which the request is  
25 being made; and

26 “(B) Must designate the percentage of the amounts identified in sub-  
27 section (2) of this section that will be distributed to the school district.

28 “[(d)] (c) The education service district board:

29 “(A) Shall approve a request submitted as provided by this subsection; and

30 “(B) Shall determine the amounts attributable to the school district and

1 eligible for distribution based on the weighted average daily membership  
2 (ADMw) of the school district for which the request was made.

3 “[(e)] (d) For each school year for which a school district receives a dis-  
4 tribution as provided by this subsection[,]:

5 “(A) The school district may act only in an advisory capacity for deci-  
6 sions made in relation to the governance of the education service district if  
7 the school district board designates a percentage under paragraph (a) of this  
8 subsection that is greater than 50 percent[,] but less than 100 percent; and

9 “(B) Notwithstanding ORS 334.015 and 334.019, the school district  
10 shall be considered to have withdrawn from the education service dis-  
11 trict in the manner provided by ORS 334.015 if the school district board  
12 designates a percentage under paragraph (a) of this subsection that is  
13 100 percent.

14 “(4) An education service district board shall expend 100 percent of all  
15 amounts received from the School Improvement Fund on services or pro-  
16 grams that have been approved by the component school districts of the ed-  
17 ucation service district through the resolution process described in ORS  
18 334.175.

19 “(5) The expenditure requirements of this section apply only to amounts  
20 retained by the education service district after making any distributions re-  
21 quired under ORS 327.019 (9).

22 “**SECTION 6. (1) The amendments to ORS 334.177 by section 5 of this**  
23 **2013 Act become operative July 1, 2016.**

24 “(2) The amendments to ORS 334.177 by section 5 of this 2013 Act  
25 first apply to expenditures occurring for the 2016-2017 school year.

26 “**SECTION 7. (1) The President of the Senate and the Speaker of the**  
27 **House of Representatives shall jointly convene a work group to:**

28 “(a) Explore options for optimal regional education delivery sys-  
29 tems; and

30 “(b) Propose legislation related to the findings of the work group.

1       “(2) The work group shall consist of the following 10 members:

2       “(a) Two members selected by the President of the Senate from  
3 among members of the Senate.

4       “(b) Two members selected by the Speaker of the House of Repre-  
5 sentatives from among members of the House of Representatives.

6       “(c) Six members jointly selected by the President of the Senate and  
7 the Speaker of the House of Representatives to represent:

8       “(A) The Department of Education;

9       “(B) The Confederation of Oregon School Administrators;

10       “(C) The Oregon School Boards Association;

11       “(D) The Oregon Association of Education Service Districts;

12       “(E) The Oregon Education Association; and

13       “(F) The Oregon School Employees Association.

14       “(3) The members of the work group identified in subsection  
15 (2)(c)(B) to (F) of this section shall provide staff support to the work  
16 group.

17       “(4) The work group shall submit a report, and include recommen-  
18 dations for legislation, to the interim legislative committees on edu-  
19 cation no later than November 20, 2013.

20       “SECTION 8. Section 7 of this 2013 Act is repealed on the date of  
21 the convening of the 2014 regular session of the Legislative Assembly  
22 as specified in ORS 171.010.

23       “SECTION 9. Representatives of the education service districts of  
24 the regions identified in ORS 334.177 (3)(a) and representatives of any  
25 school districts that make a request for a distribution of amounts as  
26 provided in ORS 334.177 (3) shall submit a report to the interim legis-  
27 lative committees related to education no later than November 1, 2016.

28       “SECTION 10. This 2013 Act being necessary for the immediate  
29 preservation of the public peace, health and safety, an emergency is  
30 declared to exist, and this 2013 Act takes effect July 1, 2013.”.

