

A-Engrossed
House Bill 2153

Ordered by the House April 18
Including House Amendments dated April 18

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Higher Education)

SUMMARY

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

Allows school district board to place limitations on proposals for public charter schools that board will evaluate if specified percentage of students of school district are enrolled in public charter schools **located in school district and three or more public charter schools are located in school district.**

Requires public charter school sponsored by State Board of Education to submit, in certain instances, request for change in sponsorship to school district board of school district in which public charter school is located.

A BILL FOR AN ACT

1
2 Relating to public charter schools; creating new provisions; and amending ORS 338.055, 338.065,
3 338.075 and 338.125 and section 12, chapter 695, Oregon Laws 2011.

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

5 **SECTION 1.** ORS 338.055 is amended to read:

6 338.055. (1) **A school district board that receives a written proposal from an applicant**
7 **seeking to establish a public charter school must conduct a public hearing and make a good**
8 **faith evaluation of the proposal as described in subsections (3) and (4) of this section unless**
9 **the provisions of subsection (2) of this section apply.**

10 (2)(a) **A school district board may place limitations on the proposals the school district**
11 **board will evaluate if:**

12 (A) **More than three percent of the students who reside in the school district are enrolled**
13 **in a public charter school located in the school district; and**

14 (B) **Three or more public charter schools are located in the school district.**

15 (b) **For the purpose of making the calculation under paragraph (a)(A) of this subsection,**
16 **the school district board shall not include students who are not required to attend public**
17 **full-time schools as provided by ORS 339.030.**

18 (c) **A school district board shall annually determine whether to place limitations on the**
19 **proposals the school district board will evaluate. The determination is valid for two years**
20 **unless the school district board decides after one year to no longer place limitations on the**
21 **proposals the school district board will consider.**

22 (d) **If a school district board places limitations on the proposals the school district board**
23 **will evaluate, the school district board must identify one or more educational goals the**
24 **school district board will use to evaluate proposals. The identification is valid for two years,**
25 **except that a school district board may decide after one year to modify the educational goals.**

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 **The school district board shall forward a copy of the educational goals, and any modifications**
2 **of the educational goals, to the State Board of Education.**

3 **(e) A school district board that identifies educational goals as provided by paragraph (d)**
4 **of this subsection may:**

5 **(A) Decide to evaluate only proposals that seek to advance one or more of the educa-**
6 **tional goals; or**

7 **(B) Determine how well a proposal advances one or more educational goals compared to**
8 **one or more other proposals submitted to the school district board.**

9 **(f) Any proposal submitted to a school district board that has determined to place limi-**
10 **tations on the proposals the school district board will evaluate must include a description**
11 **of how the public charter school will advance an educational goal identified by the school**
12 **district board. Advancement of the educational goal shall be an element of the charter.**
13 **Failure to make reasonable progress toward the advancement of an educational goal may be**
14 **grounds for termination of the charter. Whether a public charter school is making reason-**
15 **able progress shall be determined by the school district board.**

16 **(g) The following decisions of a school district board are final and not subject to appeal:**

17 **(A) The determination that a proposal does not advance an educational goal identified by**
18 **the school district board; and**

19 **(B) The determination that the public charter school is not making reasonable progress**
20 **toward the advancement of an educational goal.**

21 *[(1)]* **(3) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school district**
22 **board shall hold a public hearing on the provisions of the proposal.**

23 *[(2)]* **(4) The school district board shall evaluate a proposal in good faith using the following**
24 **criteria:**

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

28 **(b) The demonstrated financial stability of the public charter school, including the demonstrated**
29 **ability of the school to have a sound financial management system that is in place at the time the**
30 **school begins operating and that meets the requirements of ORS 338.095 (1);**

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

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

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

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

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

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

44 *[(3)]* **(5) The school district board must approve a proposal or state in writing the reasons for**
45 **disapproving a proposal within 30 days after the public hearing held under subsection *[(1)]* (3) of this**

1 section.

2 [(4)] (6) Written notice of the school district board's action shall be sent to the applicant. If the
3 proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall
4 be clearly stated in the notice sent by the school district board to the applicant. If the proposal is
5 not approved, the applicant may amend the proposal to address objections and any suggested reme-
6 dial measures and resubmit the proposal to the school district board. The school district board shall
7 approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is
8 not approved, the applicant may:

9 (a) Appeal the decision of the school district board to the State Board of Education as provided
10 by ORS 338.075; or

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

12 [(5)] (7) Individual elements in a public charter school proposal may be changed through the
13 proposal and chartering process.

14 [(6)] (8) A proposal to convert an existing public school to a public charter school must be ap-
15 proved by the school district board of the public school.

16 [(7)] (9) Entities described in ORS 338.005 (5) may not charge any fee to applicants for the pro-
17 posal process.

18 [(8)] (10) Upon request by a school district, the State Board of Education may grant an extension
19 of any timeline required by this section if the district has good cause for requesting the extension.

20 **SECTION 2.** ORS 338.055, as amended by section 10, chapter 695, Oregon Laws 2011, is
21 amended to read:

22 338.055. (1) **A school district board that receives a written proposal from an applicant**
23 **seeking to establish a public charter school must conduct a public hearing and make a good**
24 **faith evaluation of the proposal as described in subsections (3) and (4) of this section unless**
25 **the provisions of subsection (2) of this section apply.**

26 (2)(a) **A school district board may place limitations on the proposals the school district**
27 **board will evaluate if:**

28 (A) **More than three percent of the students who reside in the school district are enrolled**
29 **in a public charter school located in the school district; and**

30 (B) **Three or more public charter schools are located in the school district.**

31 (b) **For the purpose of making the calculation under paragraph (a)(A) of this subsection,**
32 **the school district board shall not include students who are not required to attend public**
33 **full-time schools as provided by ORS 339.030.**

34 (c) **A school district board shall annually determine whether to place limitations on the**
35 **proposals the school district board will evaluate. The determination is valid for two years**
36 **unless the school district board decides after one year to no longer place limitations on the**
37 **proposals the school district board will consider.**

38 (d) **If a school district board places limitations on the proposals the school district board**
39 **will evaluate, the school district board must identify one or more educational goals the**
40 **school district board will use to evaluate proposals. The identification is valid for two years,**
41 **except that a school district board may decide after one year to modify the educational goals.**
42 **The school district board shall forward a copy of the educational goals, and any modifications**
43 **of the educational goals, to the State Board of Education.**

44 (e) **A school district board that identifies educational goals as provided by paragraph (d)**
45 **of this subsection may:**

1 **(A) Decide to evaluate only proposals that seek to advance one or more of the educa-**
2 **tional goals; or**

3 **(B) Determine how well a proposal advances one or more educational goals compared to**
4 **one or more other proposals submitted to the school district board.**

5 **(f) Any proposal submitted to a school district board that has determined to place limi-**
6 **tations on the proposals the school district board will evaluate must include a description**
7 **of how the public charter school will advance an educational goal identified by the school**
8 **district board. Advancement of the educational goal shall be an element of the charter.**
9 **Failure to make reasonable progress towards the advancement of an educational goal may**
10 **be grounds for termination of the charter. Whether a public charter school is making rea-**
11 **sonable progress shall be determined by the school district board.**

12 **(g) The following decisions of a school district board are final and not subject to appeal:**

13 **(A) The determination that a proposal does not advance an educational goal identified by**
14 **the school district board; and**

15 **(B) The determination that the public charter school is not making reasonable progress**
16 **towards the advancement of an educational goal.**

17 [(1)] **(3)** Within 60 days of receipt of a proposal submitted under ORS 338.045, the school district
18 board shall hold a public hearing on the provisions of the proposal.

19 [(2)] **(4)** The school district board shall evaluate a proposal in good faith using the following
20 criteria:

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

24 (b) The demonstrated financial stability of the public charter school, including the demonstrated
25 ability of the school to have a sound financial management system that is in place at the time the
26 school begins operating and that meets the requirements of ORS 338.095 (1);

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

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

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

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

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

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

40 [(3)] **(5)** The school district board must approve a proposal or state in writing the reasons for
41 disapproving a proposal within 30 days after the public hearing held under subsection [(1)] **(3)** of this
42 section.

43 [(4)] **(6)** Written notice of the school district board's action shall be sent to the applicant. If the
44 proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall
45 be clearly stated in the notice sent by the school district board to the applicant. If the proposal is

1 not approved, the applicant may amend the proposal to address objections and any suggested remedial measures and resubmit the proposal to the school district board. The school district board shall
 2 approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is
 3 not approved, the applicant may appeal the decision of the school district board to the State Board
 4 of Education.
 5

6 [(5)] (7) Individual elements in a public charter school proposal may be changed through the
 7 proposal and chartering process.

8 [(6)] (8) A proposal to convert an existing public school to a public charter school must be ap-
 9 proved by the school district board of the public school.

10 [(7)] (9) Entities described in ORS 338.005 (5) may not charge any fee to applicants for the pro-
 11 posal process.

12 [(8)] (10) Upon request by a school district, the State Board of Education may grant an extension
 13 of any timeline required by this section if the district has good cause for requesting the extension.

14 **SECTION 3.** ORS 338.065 is amended to read:

15 338.065. (1)(a) Upon approval of a proposal by a school district board under ORS 338.055, the
 16 school district board shall become the sponsor of the public charter school.

17 (b) Pursuant to ORS 338.075 (2) or (4), the State Board of Education shall become the sponsor
 18 of the public charter school.

19 (c) Pursuant to ORS 338.075 (5), the institution of higher education shall become the sponsor of
 20 the public charter school.

21 (2) The sponsor and the applicant shall develop a written charter that contains the provisions
 22 of the proposal that have been duly approved by the sponsor and public charter school governing
 23 body. The sponsor and the applicant may agree to change elements of the proposal prior to incor-
 24 porating them into the charter or exclude elements of the proposal from the charter. The charter,
 25 when duly executed by the sponsor and the public charter school governing body, shall act as the
 26 legal authorization for the establishment of the public charter school. The charter shall be legally
 27 binding on both the sponsor and the public charter school governing body.

28 (3) The sponsor and the public charter school governing body may amend a charter by joint
 29 agreement.

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

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

33 (c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed
 34 10 years.

35 **(d) Notwithstanding the term of a charter, the public charter school governing body of**
 36 **a public charter school sponsored by the State Board of Education may submit a request for**
 37 **a change in sponsorship to the school district board of the school district in which the public**
 38 **charter school is located. A request may be submitted any time after the public charter**
 39 **school has been in operation for one year, but may be submitted only once every 12 months.**
 40 **The school district board shall review the request as though the charter is being renewed**
 41 **and shall follow the process described in subsection (6)(c) to (f) of this section. Any decision**
 42 **by the school district board under this paragraph is final and not subject to review. The**
 43 **charter with the State Board of Education shall terminate upon the effective date of a**
 44 **charter entered into with a school district.**

45 **(5)(a) At least one year prior to the expiration of a charter that is sponsored by the State**

1 **Board of Education, the public charter school governing body shall submit a request for a**
 2 **change in sponsorship to the school district board of the school district in which the public**
 3 **charter school is located. The school district board shall review the request as though the**
 4 **charter is being renewed and shall follow the process described in subsection (6)(c) to (f) of**
 5 **this section. Any decision by the school district board under this paragraph is final and not**
 6 **subject to review. The charter with the State Board of Education shall terminate upon the**
 7 **effective date of a charter entered into with a school district.**

8 **(b) If a school district board does not approve a request for a change of sponsorship, the**
 9 **governing body of a public charter school may seek renewal of the charter as provided by**
 10 **subsection (6) of this section.**

11 [(5)(a)] **(6)(a)** The renewal of a charter shall use the process required by this [section] **sub-**
 12 **section.**

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

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

17 (d) Within 10 days after the public hearing, the sponsor shall notify the public charter school
 18 governing body of the sponsor's intent about the renewal of the charter.

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

21 (f) If the sponsor approves the renewal of the charter, the sponsor and the public charter school
 22 governing body shall negotiate a new charter within 90 days after the date on which the sponsor
 23 approved the renewal of the charter unless the sponsor and the public charter school governing
 24 body agree to an extension of the time period.

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

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

31 [(6)(a)] **(7)(a)** If the sponsor does not renew the charter based on the revised request for renewal
 32 submitted under subsection [(5)(g)] **(6)(g)** of this section, the public charter school governing body
 33 may appeal the decision of the sponsor to the State Board of Education for a review of whether the
 34 sponsor used the process required by this section in denying the renewal of the charter.

35 (b) If the state board finds that the sponsor used the process required by this section in denying
 36 the request for renewal, the state board shall affirm the decision of the sponsor. A public charter
 37 school governing body may seek judicial review of an order of the state board pursuant to ORS
 38 183.484.

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

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

45 [(7)] **(8)** If the State Board of Education is the sponsor of a public charter school and the state

1 board does not renew the charter based on the revised request for renewal submitted under sub-
2 section [(5)(g)] **(6)(g)** of this section, the public charter school governing body may seek judicial re-
3 view of an order of the state board pursuant to ORS 183.484 for a review of whether the state board
4 used the process required by this section in denying the request for renewal.

5 [(8)(a)] **(9)(a)** The sponsor shall base the charter renewal decision on a good faith evaluation of
6 whether the public charter school:

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

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

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

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

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

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

21 **SECTION 4. The amendments to ORS 338.065 by section 3 of this 2013 Act apply to**
22 **charters that expire on or after January 1, 2015.**

23 **SECTION 5.** ORS 338.125 is amended to read:

24 338.125. (1) Student enrollment in a public charter school is voluntary.

25 (2)(a) All students who reside in the school district in which the public charter school is located
26 are eligible for enrollment in the public charter school if space is available.

27 (b) Students who do not reside in the school district in which the public charter school is lo-
28 cated are eligible for enrollment in the public charter school if space is available and subject to
29 subsection (4) of this section.

30 (c) A public charter school may not limit student enrollment based on race, religion, sex, sexual
31 orientation, ethnicity, national origin, disability, the terms of an individualized education program,
32 income level, proficiency in the English language or athletic ability.

33 (3)(a) Except as provided by paragraph (b) of this subsection, if the number of applications from
34 students who reside in the school district exceeds the capacity of a program, class, grade level or
35 building, the public charter school shall select students through an equitable lottery selection pro-
36 cess.

37 (b) After a public charter school has been in operation for one or more years, the public charter
38 school may give priority for admission to students who:

39 (A) Were enrolled in the school in the prior year;

40 (B) Have siblings who are presently enrolled in the school and who were enrolled in the school
41 in the prior year; or

42 (C) If the public charter school is a party to a cooperative agreement described in ORS 338.080,
43 reside in the school district that is the sponsor of the public charter school or in a school district
44 that is a party to the cooperative agreement.

45 (4)(a) A student who wishes to enroll in a virtual public charter school does not need the ap-

1 proval of the school district where the student is a resident before the student enrolls in the virtual
2 public charter school. If a student wishes to enroll in a virtual public charter school, the parent,
3 legal guardian or person in parental relationship with the student must provide the following notices
4 to the school district where the student is a resident:

5 (A) Intent to enroll the student in a virtual public charter school; and

6 (B) Enrollment of the student in a virtual public charter school.

7 (b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three
8 percent of the students who reside in a school district are enrolled in virtual public charter schools
9 that are not sponsored by the school district, a student who is a resident of the school district must
10 receive approval from the school district before enrolling in a virtual public charter school. A school
11 district is not required to give approval if more than three percent of the students who reside in the
12 school district are enrolled in virtual public charter schools that are not sponsored by the school
13 district.

14 (B) For the purpose of determining whether more than three percent of the students who reside
15 in the school district are enrolled in virtual public charter schools that are not sponsored by the
16 school district, the school district board shall [*include any students who*]:

17 (i) **Include any students who** reside in the school district, regardless of whether the students
18 are considered residents of different school districts as provided by ORS 339.133 (5); [*and*]

19 (ii) **Include any students who** are enrolled in virtual public charter schools that are not
20 sponsored by the school district[.]; **and**

21 **(iii) Not include any students who are not required to attend public full-time schools as
22 provided by ORS 339.030.**

23 (C) Students who reside in the school district, regardless of whether the students are considered
24 residents of different school districts as provided by ORS 339.133 (5), must receive approval from the
25 school district before enrolling in a virtual public charter school if the limit described in subpara-
26 graph (A) of this paragraph has been met.

27 (c) If the school district does not give approval under paragraph (b) of this subsection, the
28 school district must provide information to the parent, legal guardian or person in parental re-
29 lationship with the student about the right to appeal the decision to the State Board of Education
30 and other online options available to the student. If an appeal is made to the State Board of Edu-
31 cation, the board must issue a decision within 30 days of the submission of the appeal.

32 (5) Within 10 days of a student's enrollment in a public charter school, the public charter school
33 shall provide written notice of the student's enrollment to the school district in which the public
34 charter school is located if the student does not reside in the school district where the public
35 charter school is located.

36 (6) Within 10 days of receiving the notice described in subsection (5) of this section, the school
37 district in which the public charter school is located shall provide to the student's parent, legal
38 guardian or person in parental relationship written information about:

39 (a) The school district's responsibility to identify, locate and evaluate students enrolled in the
40 public charter school to determine which students may be in need of special education and related
41 services as provided by ORS 338.165; and

42 (b) The methods by which the school district may be contacted to answer questions or provide
43 information related to special education and related services.

44 (7) When a student described in subsection (5) of this section withdraws from a public charter
45 school for a reason other than graduation from high school, the school district in which the public

1 charter school is located shall:

2 (a) Provide to the school district in which the student resides written notice that the student
3 has withdrawn.

4 (b) Provide to the student's parent, legal guardian or person in parental relationship written
5 information about:

6 (A) The responsibility of the school district in which the student resides to identify, locate and
7 evaluate students who reside in the school district to determine which students may be in need of
8 special education and related services as provided by ORS 338.165; and

9 (B) The methods by which the school district in which the student resides may be contacted to
10 answer questions or provide information related to special education and related services.

11 (8)(a) If a student described in subsection (5) of this section enrolls in a public charter school
12 and has an individualized education program, the school district in which the public charter school
13 is located must implement the individualized education program and follow the terms of the indi-
14 vidualized education program until a new individualized education program is developed.

15 (b) If a student described in subsection (5) of this section withdraws from a public charter school
16 and has an individualized education program, the school district in which the student resides must
17 implement the individualized education program and follow the terms of the individualized education
18 program until a new individualized education program is developed.

19 (9) When a virtual public charter school enrolls a student or a student no longer is enrolled in
20 a virtual public charter school, the virtual public charter school shall provide the written notices
21 described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

22 (10) A public charter school may conduct fund-raising activities but may not require a student
23 to participate in fund-raising activities as a condition of admission to the public charter school.

24 **SECTION 6.** Section 12, chapter 695, Oregon Laws 2011, as amended by section 30, chapter 718,
25 Oregon Laws 2011, is amended to read:

26 **Sec. 12.** [(1) *The amendments to ORS 338.055 and 338.075 by section 10, chapter 695, Oregon Laws*
27 *2011 (Enrolled House Bill 3645), and section 29 of this 2011 Act become operative on July 1, 2017.*]

28 (1) **The amendments to ORS 338.075 by section 29, chapter 718, Oregon Laws 2011, become**
29 **operative on the effective date of this 2013 Act.**

30 (2) **The amendments to ORS 338.075 by section 8 of this 2013 Act become operative on**
31 **July 1, 2017.**

32 (3) **The amendments to ORS 338.055 by section 10, chapter 695, Oregon Laws 2011, become**
33 **operative on July 1, 2017.**

34 [(2)] (4) Nothing in the amendments to ORS 338.055 and 338.075 by section 10, chapter 695,
35 Oregon Laws 2011 [*Enrolled House Bill 3645*], and section 29 of this 2011 Act] **and section 8 of this**
36 **2013 Act** affects the ability of an institution of higher education to continue to sponsor a public
37 charter school if the institution of higher education became the sponsor of the public charter school
38 prior to July 1, 2017.

39 **SECTION 7.** ORS 338.075, as amended by section 29, chapter 718, Oregon Laws 2011, and sec-
40 tion 5, chapter 91, Oregon Laws 2012, is amended to read:

41 338.075. (1) If a school district board does not approve a proposal to start a public charter
42 school pursuant to ORS 338.055, the applicant may:

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

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

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

2 (a) May recommend to the applicant and school district board revisions to the proposal.

3 (b) If the school district board does not accept the revisions to the proposal and the applicant
4 agrees to the sponsorship, may become the sponsor of the public charter school.

5 (3) Upon receipt of a request for review, in addition to actions described in subsection (2) of this
6 section and at any time during the review process, the State Board of Education may reject a pro-
7 posal to start a public charter school if the school fails to meet the requirements of this chapter.

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

12 **(5)(a) An applicant seeking sponsorship by an institution of higher education may submit**
13 **to the institution of higher education the same proposal that was submitted to the school**
14 **district board under ORS 338.045 or a proposal that is modified to take into consideration the**
15 **characteristics of the institution of higher education evaluating the proposal under this**
16 **subsection.**

17 **(b) An institution of higher education may evaluate a proposal upon receipt. If the insti-**
18 **tution of higher education evaluates the proposal, the institution of higher education shall:**

19 **(A) Approve or disapprove the proposal using the criteria described in ORS 338.055 (4)(b)**
20 **to (h) and approve the proposal only if the institution of higher education may become a**
21 **sponsor as provided by paragraphs (e) and (f) of this subsection; or**

22 **(B) Disapprove the proposal based on the institution's determination that the proposal**
23 **does not align with the mission of the institution of higher education.**

24 **(c)(A) The following decisions by an institution of higher education are final and not**
25 **subject to appeal:**

26 **(i) Whether to evaluate a proposal for a public charter school; and**

27 **(ii) The approval or disapproval of a proposal for a public charter school.**

28 **(B) The process by which an institution of higher education makes a decision described**
29 **in subparagraph (A) of this paragraph is not subject to appeal.**

30 **(d) If an institution of higher education evaluates a proposal, the institution of higher**
31 **education must approve the proposal or, if disapproving the proposal, state in writing the**
32 **reasons for disapproving the proposal within 60 days after receiving the proposal.**

33 ~~[(5)(a)]~~ **(e) An institution of higher education may [sponsor a public charter school] approve a**
34 **proposal evaluated under this subsection only if[:]**

35 ~~[(A)]~~ the main campus of the institution of higher education is located within 25 miles of the
36 proposed public charter school, based on the nearest traveled road[; and]

37 ~~[(B)]~~ *The institution of higher education first became a sponsor of the public charter school prior*
38 *to July 1, 2017].*

39 ~~[(b)]~~ **(f) An institution of higher education may [sponsor] become a sponsor of** only one public
40 charter school in this state, regardless of the number of campuses or locations of the institution of
41 higher education.

42 ~~[(c)]~~ **(g) If a public charter school has a sponsor that is an institution of higher education and**
43 **the public charter school enters into a contract with a third-party entity to provide educational**
44 **services for the public charter school:**

45 **(A) A member of the governing body of the public charter school or the governing body of the**

1 sponsor may not be an employee of the third-party entity, be a member of the governing board of
2 the third-party entity or be any other representative of the third-party entity;

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

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

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

10 **SECTION 8.** ORS 338.075, as amended by section 29, chapter 718, Oregon Laws 2011, section
11 5, chapter 91, Oregon Laws 2012, and section 7 of this 2013 Act, is amended to read:

12 338.075. (1) If a school district board does not approve a proposal to start a public charter
13 school pursuant to ORS 338.055, the applicant may[:]

14 [(a)] request that the State Board of Education review the decision of the school district
15 board[; *or*]

16 [(b) *Submit a proposal to an institution of higher education.*]

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

18 (a) May recommend to the applicant and school district board revisions to the proposal.

19 (b) If the school district board does not accept the revisions to the proposal and the applicant
20 agrees to the sponsorship, may become the sponsor of the public charter school.

21 (3) Upon receipt of a request for review, in addition to actions described in subsection (2) of this
22 section and at any time during the review process, the State Board of Education may reject a pro-
23 posal to start a public charter school if the school fails to meet the requirements of this chapter.

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

28 [(5)(a) *An applicant seeking sponsorship by an institution of higher education may submit to the*
29 *institution of higher education the same proposal that was submitted to the school district board under*
30 *ORS 338.045 or a proposal that is modified to take into consideration the characteristics of the insti-*
31 *tution of higher education evaluating the proposal under this subsection.*]

32 [(b) *An institution of higher education may evaluate a proposal upon receipt. If the institution of*
33 *higher education evaluates the proposal, the institution of higher education shall:*]

34 [(A) *Approve or disapprove the proposal using the criteria described in ORS 338.055 (4)(b) to (h)*
35 *and approve the proposal only if the institution of higher education may become a sponsor as provided*
36 *by paragraphs (e) and (f) of this subsection; or]*

37 [(B) *Disapprove the proposal based on the institution's determination that the proposal does not*
38 *align with the mission of the institution of higher education.*]

39 [(c)(A) *The following decisions by an institution of higher education are final and not subject to*
40 *appeal:*]

41 [(i) *Whether to evaluate a proposal for a public charter school; and]*

42 [(ii) *The approval or disapproval of a proposal for a public charter school.*]

43 [(B) *The process by which an institution of higher education makes a decision described in sub-*
44 *paragraph (A) of this paragraph is not subject to appeal.*]

45 [(d) *If an institution of higher education evaluates a proposal, the institution of higher education*

1 *must approve the proposal or, if disapproving the proposal, state in writing the reasons for disap-*
2 *proving the proposal within 60 days after receiving the proposal.*

3 [(e)] **(5)(a)** An institution of higher education may [*approve a proposal evaluated under this sub-*
4 *section*] **sponsor a public charter school** only if:

5 **(A)** The main campus of the institution of higher education is located within 25 miles of the
6 proposed public charter school, based on the nearest traveled road[.]; **and**

7 **(B) The institution of higher education first became a sponsor of the public charter**
8 **school prior to July 1, 2017.**

9 [(f)] **(b)** An institution of higher education may [*become a sponsor of*] **sponsor** only one public
10 charter school in this state, regardless of the number of campuses or locations of the institution of
11 higher education.

12 [(g)] **(c)** If a public charter school has a sponsor that is an institution of higher education and
13 the public charter school enters into a contract with a third-party entity to provide educational
14 services for the public charter school:

15 **(A)** A member of the governing body of the public charter school or the governing body of the
16 sponsor may not be an employee of the third-party entity, be a member of the governing board of
17 the third-party entity or be any other representative of the third-party entity;

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

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

22 **(D)** The educational services provided by the third-party entity must comply with state standards
23 and requirements, and any provision of the contract with the third-party entity that does not allow
24 for the provision of educational services that comply with state standards and requirements is void.

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