

**SENATE AMENDMENTS TO
HOUSE BILL 3093
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON EDUCATION AND WORKFORCE DEVELOPMENT

May 22

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; amending ORS 327.137, 338.055, 338.105 and 338.135; and declaring an
3 emergency.”.

4 Delete lines 4 through 25 and delete pages 2 and 3.

5 On page 4, delete lines 1 through 13 and insert:

6 “**SECTION 1.** ORS 327.137 is amended to read:

7 “327.137. (1)(a) Every common or union high school district or education service district shall
8 file a copy of its audit report with the Department of Education within six months of the end of the
9 fiscal year for which the audit is required. **The audit report shall include:**

10 “(A) **Information necessary for the computation required in the administration of ORS**
11 **327.006 to 327.133, 327.348, 327.731, 328.542 and 530.115 and this section; and**

12 “(B) **If the district is a sponsor of any public charter schools, a copy of each annual audit**
13 **forwarded to the district as required by ORS 338.095 (4).**

14 “(b) If the audit report, as submitted to the district, fails to provide the detail necessary for the
15 computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.731, 328.542 and
16 530.115 and this section, the district shall submit the necessary information on forms provided by
17 the department within the time prescribed for filing the audit in this section.

18 “(c) **The Superintendent of Public Instruction may withhold any payments from the State**
19 **School Fund for a public charter school that, pursuant to ORS 338.155, are due to a district**
20 **under ORS 327.095 if:**

21 “(A) **The audit report filed by the district fails to include the public charter school annual**
22 **audit as required by paragraph (a)(B) of this subsection; and**

23 “(B) **The district has not filed the public charter school annual audit with the department**
24 **by April 1.**

25 “(d) **If payments are withheld as provided by paragraph (c) of this subsection, the su-**
26 **perintendent may allow payments to be made from the State School Fund to the district**
27 **upon receipt of the annual audit or upon the meeting of any other conditions identified by**
28 **rule of the State Board of Education.**

29 “(e) Any district failing to file a copy of [its] **an** audit report under this section or **a report**
30 **under ORS 327.133 [shall] may** not receive any payments from the State School Fund until [such
31 reports are] **the report is** filed.

32 “(2) Notwithstanding the timeline provided by this section and pursuant to rules adopted by the
33 State Board of Education, the superintendent [of Public Instruction] may waive a reporting date or
34 specify an alternative date to provide the audit report or information if a human-created disaster

1 or a natural disaster affects the ability of a school district or an education service district to provide the audit report or information by a specified date.

2
3 **“SECTION 2.** ORS 338.105 is amended to read:

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

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

7 **“(b)** Failure to meet the requirements for student performance stated in the charter.

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

9 **“(d)** Failure to maintain insurance as described in the charter.

10 **“(e)** Failure to maintain financial stability.

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

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14 **“(2)(a)** If a charter is terminated under subsection (1) of this section, the sponsor shall notify the public charter school governing body at least 60 days prior to the proposed effective date of the termination. The notice shall state the grounds for the termination.

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17 **“(b) If the grounds for termination include failure to maintain financial stability or failure to maintain a sound financial management system, the sponsor and the public charter school may agree to develop a plan to correct deficiencies. Under a plan to correct deficiencies:**

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21 **“(A) The public charter school may attempt to correct any deficiencies related to financial stability or to a sound financial management system by a date identified by the sponsor, which may not be less than 60 days from the date of the notice;**

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23
24 **“(B) The proposed effective date of the termination may be extended to the date identified under subparagraph (A) of this paragraph;**

25
26
27 **“(C) The sponsor may withhold up to 50 percent of the moneys owed to the public charter school while the public charter school is on the plan to correct deficiencies unless the withholding would create an undue hardship, as determined pursuant to rules of the State Board of Education; and**

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29
30 **“(D) The sponsor must hold in trust any moneys withheld under subparagraph (C) of this paragraph until:**

31
32 **“(i) The public charter school complies with the plan to correct deficiencies, at which time the public charter school is entitled to the moneys held in trust; or**

33
34 **“(ii) The public charter school fails to comply with the plan to correct deficiencies, at which time the charter is terminated and the public charter school forfeits any claim to the moneys held in trust.**

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37 **“(c) A deadline to correct deficiencies under paragraph (b)(A) of this subsection may be extended by mutual agreement of the sponsor and the public charter school.**

38
39 **“(d) The public charter school governing body may request a hearing by the sponsor in relation to a termination of the charter or a plan to correct deficiencies.**

40
41 **“(3) A public charter school governing body may appeal a decision of a sponsor that is related to a termination of the charter or a plan to correct deficiencies to:**

42
43 **“(a) The state board if the sponsor is an entity described in ORS 338.005 (5)(a) or (c). The board shall adopt by rule procedures to ensure a timely appeals process to prevent disruption of students’ education.**

1 “(b) The circuit court pursuant to ORS 183.484 if the sponsor is the State Board of Education.
2 “(4)(a) Notwithstanding subsection (2) of this section, a sponsor may terminate a charter imme-
3 diately and close a public charter school if the public charter school is endangering the health or
4 safety of the students enrolled in the public charter school.
5 “(b) The public charter school governing body may request a hearing from the sponsor on the
6 termination of the charter under this subsection. The sponsor shall hold a hearing within 10 days
7 after receiving the request.
8 “(c) The public charter school governing body may appeal a decision of a sponsor under this
9 subsection to the State Board of Education. The State Board of Education shall hold a hearing
10 within 10 days after receiving the appeal request.
11 “(d) Throughout the appeals process, the public charter school shall remain closed at the dis-
12 cretion of the sponsor unless the State Board of Education orders the sponsor to open the public
13 charter school and not terminate the charter.
14 “(5) Termination of a charter shall not abridge the public charter school’s legal authority to
15 operate as a private or nonchartered public school.
16 “(6) If a charter is terminated or a public charter school is dissolved:
17 “(a) The assets of the public charter school that were purchased with public funds shall be given
18 to the State Board of Education. The State Board of Education may disburse the assets of the public
19 charter school to school districts or other public charter schools.
20 “(b) All student education records of the public charter school shall be transferred to the ad-
21 ministrative office of the school district in which the public charter school was located.
22 “(7) A public charter school governing body may only terminate a charter, dissolve or close a
23 public charter school at the end of a semester. If a charter is terminated by the public charter
24 school governing body or a public charter school is closed or dissolved, the public charter school
25 governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the
26 termination, closure or dissolution.
27 “**SECTION 3. If House Bill 2150 becomes law, section 2 of this 2013 Act (amending ORS**
28 **338.105) is repealed and ORS 338.105, as amended by section 10, chapter __, Oregon Laws 2013**
29 **(Enrolled House Bill 2150), is amended to read:**
30 “338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the
31 following grounds:
32 “(a) Failure to meet the terms of an approved charter or this chapter.
33 “(b) Failure to meet the requirements for student performance stated in the charter.
34 “(c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.
35 “(d) Failure to maintain insurance as described in the charter.
36 “(e) Failure to maintain financial stability.
37 “(f) Failure to maintain, for [*two*] **one** or more consecutive years, a sound financial management
38 system described in the proposal submitted under ORS 338.045 and incorporated into the written
39 charter under ORS 338.065.
40 “(2)(a) If a charter is terminated under subsection (1) of this section, the sponsor shall notify
41 the public charter school governing body at least 60 days prior to the proposed effective date of the
42 termination. The notice shall state the grounds for the termination.
43 “(b) **If the grounds for termination include failure to maintain financial stability or fail-**
44 **ure to maintain a sound financial management system, the sponsor and the public charter**
45 **school may agree to develop a plan to correct deficiencies. Under a plan to correct deficien-**

1 **cies:**

2 **“(A) The public charter school may attempt to correct any deficiencies related to finan-**
3 **cial stability or to a sound financial management system by a date identified by the sponsor,**
4 **which may not be less than 60 days from the date of the notice;**

5 **“(B) The proposed effective date of the termination may be extended to the date identi-**
6 **fied under subparagraph (A) of this paragraph;**

7 **“(C) The sponsor may withhold up to 50 percent of the moneys owed to the public charter**
8 **school while the public charter school is on the plan to correct deficiencies unless the with-**
9 **holding would create an undue hardship, as determined pursuant to rules of the State Board**
10 **of Education; and**

11 **“(D) The sponsor must hold in trust any moneys withheld under subparagraph (C) of this**
12 **paragraph until:**

13 **“(i) The public charter school complies with the plan to correct deficiencies, at which**
14 **time the public charter school is entitled to the moneys held in trust; or**

15 **“(ii) The public charter school fails to comply with the plan to correct deficiencies, at**
16 **which time the charter is terminated and the public charter school forfeits any claim to the**
17 **moneys held in trust.**

18 **“(e) A deadline to correct deficiencies under paragraph (b)(A) of this subsection may be**
19 **extended by mutual agreement of the sponsor and the public charter school.**

20 **“(d) The public charter school governing body may request a hearing by the sponsor in relation**
21 **to a termination of the charter or a plan to correct deficiencies.**

22 **“(3) A public charter school governing body may appeal a decision of a sponsor under this sec-**
23 **tion. The appeal shall be to:**

24 **“(a) The State Board of Education if the sponsor is an entity described in ORS 338.005 (5)(a) or**
25 **(c). The State Board of Education shall:**

26 **“(A) Review only:**

27 **“(i) The grounds for termination under this section as stated by the school district board; or**

28 **“(ii) A plan to correct deficiencies; and**

29 **“(B) Adopt by rule procedures to ensure a timely appeals process to prevent disruption of**
30 **students’ education.**

31 **“(b) The circuit court pursuant to ORS 183.484 if the sponsor is the State Board of Education.**

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

35 **“(b) The public charter school governing body may request a hearing from the sponsor on the**
36 **termination of the charter under this subsection. The sponsor shall hold a hearing within 10 days**
37 **after receiving the request.**

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

41 **“(d) Throughout the appeals process, the public charter school shall remain closed at the dis-**
42 **cretion of the sponsor unless the State Board of Education orders the sponsor to open the public**
43 **charter school and not terminate the charter.**

44 **“(5) Termination of a charter shall not abridge the public charter school’s legal authority to**
45 **operate as a private or nonchartered public school.**

1 “(6) If a charter is terminated or a public charter school is dissolved:

2 “(a) The assets of the public charter school that were purchased with public funds shall be given
3 to the State Board of Education. The State Board of Education may disburse the assets of the public
4 charter school to school districts or other public charter schools.

5 “(b) All student education records of the public charter school shall be transferred to the ad-
6 ministrative office of the school district in which the public charter school was located.

7 “(7) A public charter school governing body may only terminate a charter, dissolve or close a
8 public charter school at the end of a semester. If a charter is terminated by the public charter
9 school governing body or a public charter school is closed or dissolved, the public charter school
10 governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the
11 termination, closure or dissolution.”.

12 On page 6, after line 14, insert:

13 “**SECTION 6.** ORS 338.135 is amended to read:

14 “338.135. (1) Employee assignment to a public charter school shall be voluntary.

15 “(2)(a) A public charter school or the sponsor of the public charter school is considered the
16 employer of any employees of the public charter school. If a school district board is not the sponsor
17 of the public charter school, the school district board may not be the employer of the employees of
18 the public charter school and the school district board may not collectively bargain with the em-
19 ployees of the public charter school. The public charter school governing body shall control the
20 selection of employees at the public charter school.

21 “(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts
22 with a for-profit entity to provide educational services through the virtual public charter school, the
23 for-profit entity may not be the employer of any employees of the virtual public charter school[.]
24 **unless:**

25 “(A) **The employee is an administrator who does not have any teaching responsibilities;**
26 **and**

27 “(B) **Both the executive officer of the sponsor and the public charter school governing**
28 **body approve employment by the for-profit entity. The executive officer or governing body**
29 **may choose to grant approval under this subparagraph:**

30 “(i) **For all employees of the for-profit entity who meet the description in subparagraph**
31 **(A) of this paragraph;**

32 “(ii) **Based on the job categories of the employees who meet the description in subpara-**
33 **graph (A) of this paragraph; or**

34 “(iii) **On a case-by-case basis for each employee who meets the description in subpara-**
35 **graph (A) of this paragraph.**

36 “(3) The school district board of the school district within which the public charter school is
37 located shall grant a leave of absence to any employee who chooses to work in the public charter
38 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
39 board policy. However, the length of the leave of absence may not be less than two years unless:

40 “(a) The charter of the public charter school is terminated or the public charter school is dis-
41 solved or closed during the leave of absence; or

42 “(b) The employee and the school district board have mutually agreed to a different length of
43 time.

44 “(4) An employee of a public charter school operating within a school district who is granted
45 a leave of absence from the school district and returns to employment with the school district shall

1 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
2 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
3 a public charter school not operating within the school district may make provisions for the return
4 of the employee to employment with the school district.

5 “(5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a
6 public employer and as such shall participate in the Public Employees Retirement System.

7 “(6) For teacher licensing, employment experience in public charter schools shall be considered
8 equivalent to experience in public schools.

9 “(7)(a) Any person employed as an administrator in a public charter school shall be licensed or
10 registered to administer by the Teacher Standards and Practices Commission.

11 “(b) Any person employed as a teacher in a public charter school shall be licensed or registered
12 to teach by the commission.

13 “(c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-
14 time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed
15 by the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

16 “(8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
17 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
18 of a labor organization or organize with other employees to bargain collectively. Bargaining units
19 at the public charter school may be separate from other bargaining units of the sponsor or of the
20 school district in which the public charter school is located. Employees of a public charter school
21 may be part of the bargaining units of the sponsor or of the school district in which the public
22 charter school is located.

23 “(9) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter
24 school in a collective bargaining agreement.

25 “**SECTION 7.** ORS 338.135, as amended by section 6 of this 2013 Act, is amended to read:

26 “338.135. (1) Employee assignment to a public charter school shall be voluntary.

27 “(2)(a) A public charter school or the sponsor of the public charter school is considered the
28 employer of any employees of the public charter school. If a school district board is not the sponsor
29 of the public charter school, the school district board may not be the employer of the employees of
30 the public charter school and the school district board may not collectively bargain with the em-
31 ployees of the public charter school. The public charter school governing body shall control the
32 selection of employees at the public charter school.

33 “(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts
34 with a for-profit entity to provide educational services through the virtual public charter school, the
35 for-profit entity may not be the employer of any employees of the virtual public charter school.
36 [*unless:*]

37 “[*(A) The employee is an administrator who does not have any teaching responsibilities; and*]

38 “[*(B) Both the executive officer of the sponsor and the public charter school governing body ap-
39 prove employment by the for-profit entity. The executive officer or governing body may choose to grant
40 approval under this subparagraph:*]

41 “[*(i) For all employees of the for-profit entity who meet the description in subparagraph (A) of this
42 paragraph;*]

43 “[*(ii) Based on the job categories of the employees who meet the description in subparagraph (A)
44 of this paragraph; or*]

45 “[*(iii) On a case-by-case basis for each employee who meets the description in subparagraph (A)*]

1 of this paragraph.]

2 “(3) The school district board of the school district within which the public charter school is
3 located shall grant a leave of absence to any employee who chooses to work in the public charter
4 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
5 board policy. However, the length of the leave of absence may not be less than two years unless:

6 “(a) The charter of the public charter school is terminated or the public charter school is dis-
7 solved or closed during the leave of absence; or

8 “(b) The employee and the school district board have mutually agreed to a different length of
9 time.

10 “(4) An employee of a public charter school operating within a school district who is granted
11 a leave of absence from the school district and returns to employment with the school district shall
12 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
13 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
14 a public charter school not operating within the school district may make provisions for the return
15 of the employee to employment with the school district.

16 “(5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a
17 public employer and as such shall participate in the Public Employees Retirement System.

18 “(6) For teacher licensing, employment experience in public charter schools shall be considered
19 equivalent to experience in public schools.

20 “(7)(a) Any person employed as an administrator in a public charter school shall be licensed or
21 registered to administer by the Teacher Standards and Practices Commission.

22 “(b) Any person employed as a teacher in a public charter school shall be licensed or registered
23 to teach by the commission.

24 “(c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-
25 time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed
26 by the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

27 “(8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
28 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
29 of a labor organization or organize with other employees to bargain collectively. Bargaining units
30 at the public charter school may be separate from other bargaining units of the sponsor or of the
31 school district in which the public charter school is located. Employees of a public charter school
32 may be part of the bargaining units of the sponsor or of the school district in which the public
33 charter school is located.

34 “(9) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter
35 school in a collective bargaining agreement.

36 “**SECTION 8. The amendments to ORS 338.135 by section 7 of this 2013 Act become op-
37 erative on July 1, 2018.**

38 “**SECTION 9. The amendments to ORS 327.137, 338.055 and 338.105 by sections 1 to 5 of
39 this 2013 Act become operative on January 1, 2014.**

40 “**SECTION 10. This 2013 Act being necessary for the immediate preservation of the public
41 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
42 on its passage.”.**