

# Senate Bill 418

Sponsored by Senator CLOSE (Pre-session filed.)

## SUMMARY

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

Increases percentage of students who may enroll in virtual public charter school without receiving approval for enrollment from resident school district.

Removes sunset on institution of higher education becoming sponsor of public charter school. Allows institution of higher education to sponsor more than one public charter school.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public charter schools; amending ORS 338.055, 338.075 and 338.125 and section 12,  
3 chapter 695, Oregon Laws 2011; and declaring an emergency.

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

5 **SECTION 1.** ORS 338.125 is amended to read:

6 338.125. (1) Student enrollment in a public charter school is voluntary.

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

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

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

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

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

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

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

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

27 (4)(a) A student who wishes to enroll in a virtual public charter school does not need the ap-  
28 proval of the school district where the student is a resident before the student enrolls in the virtual  
29 public charter school. If a student wishes to enroll in a virtual public charter school, the parent,  
30 legal guardian or person in parental relationship with the student must provide the following notices

**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 to the school district where the student is a resident:

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

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

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

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

14 (i) Reside in the school district, regardless of whether the students are considered residents of  
15 different school districts as provided by ORS 339.133 (5); and

16 (ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.

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

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

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

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

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

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

38 (7) When a student described in subsection (5) of this section withdraws from a public charter  
39 school for a reason other than graduation from high school, the school district in which the public  
40 charter school is located shall:

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

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

45 (A) The responsibility of the school district in which the student resides to identify, locate and

1 evaluate students who reside in the school district to determine which students may be in need of  
2 special education and related services as provided by ORS 338.165; and

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

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

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

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

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

18 **SECTION 2.** Section 12, chapter 695, Oregon Laws 2011, as amended by section 30, chapter 718,  
19 Oregon Laws 2011, is amended to read:

20 **Sec. 12.** [(1)] The amendments to ORS 338.055 and 338.075 by section 10, chapter 695, Oregon  
21 Laws 2011 [(*Enrolled House Bill 3645*)], and section 29 [*of this 2011 Act*], **chapter 718, Oregon Laws**  
22 **2011**, become operative on [*July 1, 2017*] **the effective date of this 2013 Act.**

23 [(2) *Nothing in the amendments to ORS 338.055 and 338.075 by section 10, chapter 695, Oregon*  
24 *Laws 2011 (Enrolled House Bill 3645), and section 29 of this 2011 Act affects the ability of an institu-*  
25 *tion of higher education to continue to sponsor a public charter school if the institution of higher edu-*  
26 *cation became the sponsor of the public charter school prior to July 1, 2017.*]

27 **SECTION 3.** ORS 338.075, as amended by section 29, chapter 718, Oregon Laws 2011, and sec-  
28 tion 5, chapter 91, Oregon Laws 2012, is amended to read:

29 338.075. (1) If a school district board does not approve a proposal to start a public charter  
30 school pursuant to ORS 338.055, the applicant may:

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

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

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

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

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

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

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

45 **(5)(a) An applicant seeking sponsorship by an institution of higher education may submit**

1 to the institution of higher education the same proposal that was submitted to the school  
 2 district board under ORS 338.045 or a proposal that is modified to take into consideration the  
 3 characteristics of the institution of higher education evaluating the proposal under this  
 4 subsection.

5 (b) Upon receipt of a proposal, an institution of higher education shall evaluate the pro-  
 6 posal. The institution of higher education shall:

7 (A) Approve or disapprove the proposal using the criteria described in ORS 338.055 (2)(b)  
 8 to (h) and approve the proposal only if the institution of higher education may become a  
 9 sponsor as provided by paragraphs (e) and (f) of this subsection; or

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

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

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

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

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

18 (d) Within 60 days after receiving a proposal, the institution of higher education must  
 19 approve the proposal or, if disapproving the proposal, state in writing the reasons for disap-  
 20 proving the proposal.

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

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

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

27 [(b) *An institution of higher education may sponsor only one public charter school in this state,*  
 28 *regardless of the number of campuses or locations of the institution of higher education.*]

29 [(c)] (f) If a public charter school has a sponsor that is an institution of higher education and  
 30 the public charter school enters into a contract with a third-party entity to provide educational  
 31 services for the public charter school:

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

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

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

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

42 **SECTION 4.** ORS 338.055, as amended by section 10, chapter 695, Oregon Laws 2011, is  
 43 amended to read:

44 338.055. (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school  
 45 district board shall hold a public hearing on the provisions of the proposal.

1 (2) The school district board shall evaluate a proposal in good faith using the following criteria:

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

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

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

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

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

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

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

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

21 (3) The school district board must approve a proposal or state in writing the reasons for disap-  
22 proving a proposal within 30 days after the public hearing held under subsection (1) of this section.

23 (4) Written notice of the school district board's action shall be sent to the applicant. If the  
24 proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall  
25 be clearly stated in the notice sent by the school district board to the applicant. If the proposal is  
26 not approved, the applicant may amend the proposal to address objections and any suggested reme-  
27 dial measures and resubmit the proposal to the school district board. The school district board shall  
28 approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is  
29 not approved, the applicant may:

30 (a) Appeal the decision of the school district board to the State Board of Education[,] **as pro-**  
31 **vided by ORS 338.075 (1)(a); or**

32 (b) **Submit a proposal to an institution of higher education as provided by ORS 338.075**  
33 **(1)(b).**

34 (5) Individual elements in a public charter school proposal may be changed through the proposal  
35 and chartering process.

36 (6) A proposal to convert an existing public school to a public charter school must be approved  
37 by the school district board of the public school.

38 (7) Entities described in ORS 338.005 (5) may not charge any fee to applicants for the proposal  
39 process.

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

42 **SECTION 5. This 2013 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
44 **on its passage.**