

Senate Bill 793

Sponsored by Senators MONROE, STEINER HAYWARD; Senators BURDICK, MONNES ANDERSON (at the request of Oregon Association of Treatment Centers)

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**.

Alters method by which moneys are distributed to school districts for purpose of paying for costs of education of students in eligible day treatment programs and eligible residential treatment programs.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to funding for education of students in treatment programs; creating new provisions;
3 amending ORS 343.243 and 343.961; and declaring an emergency.

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

5 **SECTION 1.** ORS 343.961 is amended to read:

6 343.961. (1) As used in this section:

7 (a) "Day treatment program" means a public or private program that provides treatment of
8 children with a mental illness, an emotional disturbance or another mental health issue.

9 (b) "Eligible day treatment program" means a day treatment program with which the Oregon
10 Health Authority contracts for long term care or treatment. "Eligible day treatment program" does
11 not include residential treatment programs or programs that provide care or treatment to juveniles
12 who are in detention facilities.

13 (c) "Eligible residential treatment program" means a residential treatment program with which
14 the Oregon Health Authority, the Department of Human Services or the Oregon Youth Authority
15 contracts for long term care or treatment. "Eligible residential treatment program" does not include
16 psychiatric day treatment programs or programs that provide care or treatment to juveniles who
17 are in detention facilities.

18 (d) "Residential treatment program" means a public or private residential program that provides
19 treatment of children with a mental illness, an emotional disturbance or another mental health issue.

20 (e) "Student" means a child who is placed in an eligible day treatment program or eligible res-
21 idential treatment program by a public or private entity or by the child's parent.

22 (2)(a) The Department of Education shall be responsible for payment of the costs of education
23 of students in eligible day treatment programs and eligible residential treatment programs by con-
24 tracting with the school district in which the eligible day treatment program or eligible residential
25 treatment program is located. The costs of education do not include transportation, care, treatment
26 or medical expenses.

27 **(b) The department shall pay the costs for education of students in eligible day treatment**
28 **programs and eligible residential treatment programs by distributing moneys to the school**
29 **districts with which the department has contracts as described in paragraph (a) of this sub-**
30 **section. The amount distributed to a school district = average daily membership of the**

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 school district x 3.0 x the total utilization rate count for an individual program provider.

2 (c) For the purposes of the calculation described in paragraph (b) of this subsection, the
3 total utilization rate count for an individual program provider shall be determined by the
4 department pursuant to rules adopted by the State Board of Education based on information
5 received from the Oregon Health Authority, the Department of Human Services, the Oregon
6 Youth Authority and eligible day treatment programs and eligible residential treatment pro-
7 grams.

8 (3)(a) The school district in which an eligible day treatment program or eligible residential
9 treatment program is located is responsible for providing the education of a student, including the
10 identification, location and evaluation of the student for the purpose of determining the student's
11 eligibility to receive special education and related services.

12 (b) A school district that is responsible for providing an education under this subsection may
13 provide the education:

14 (A) Directly or through another school district or an education service district; and

15 (B) In the facilities of an eligible day treatment program or eligible residential treatment pro-
16 gram, the facilities of a school district or the facilities of an education service district.

17 (c) When a student is no longer in an eligible day treatment program or eligible residential
18 treatment program, the responsibilities imposed by this subsection terminate and become the re-
19 sponsibilities of the school district where the student is a resident, as determined under ORS 339.133
20 and 339.134.

21 (4) A school district may request the Department of Education to combine several eligible day
22 treatment programs or eligible residential treatment programs into one contract with another school
23 district or an education service district.

24 (5) The Oregon Health Authority, the Department of Human Services or the Oregon Youth Au-
25 thority shall give the school district providing the education at an eligible day treatment program
26 or an eligible residential treatment program 14 days' notice, to the extent practicable, before a
27 student is dismissed from the program.

28 (6) The Department of Education may make advances to school districts responsible for provid-
29 ing an education to students under this section from funds appropriated for that purpose [*based on*
30 *the estimated agreed cost of educating the students per school year*]. Advances equal to 25 percent of
31 the estimated cost may be made on September 1, December 1 and March 1 of the current year. The
32 balance may be paid whenever the full determination of cost is made.

33 (7) School districts that provide the education described in this section on a year-round plan
34 may apply for 25 percent of the funds appropriated for that purpose on July 1, October 1, January
35 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is
36 made.

37 (8) In addition to the payment methods described in this section, the Department of Education
38 may:

39 (a) Negotiate interagency agreements to pay for the cost of education in day treatment programs
40 and residential treatment programs operated under the auspices of the State Board of Higher Edu-
41 cation; and

42 (b) Negotiate intergovernmental agreements to pay for the cost of education in day treatment
43 programs and residential treatment programs operated under the auspices of the Oregon Health and
44 Science University Board of Directors.

45 **SECTION 2.** ORS 343.243 is amended to read:

1 343.243. (1) Each school year, the Department of Education shall receive an amount, as calcu-
 2 lated under this section, from the State School Fund to pay the costs of educating children in pro-
 3 grams under ORS 343.261, 343.961 and 346.010.

4 (2) To meet the requirements of ORS 343.261, the department shall receive from the State School
 5 Fund an amount that is equal to the product of the following:

6 (a) The average net operating expenditure per student of all school districts during the preced-
 7 ing school year; and

8 (b) The number of slots available for students in the hospital programs under ORS 343.261, as
 9 determined by the department for the school year.

10 *[(3) To meet the requirements of ORS 343.961, the department shall receive from the State School
 11 Fund an amount that is equal to the product of the following:]*

12 *[(a) The average net operating expenditure per student of all school districts during the preceding
 13 school year; and]*

14 *[(b) The number of slots available for all students in eligible day treatment programs and eligible
 15 residential treatment programs under ORS 343.961 for the school year, as determined by the Depart-
 16 ment of Education based on information received from the Department of Human Services, the Oregon
 17 Health Authority, the Oregon Youth Authority and eligible day treatment programs and eligible resi-
 18 dential treatment programs.]*

19 **(3) To meet the requirements of ORS 343.961, the department shall receive from the State
 20 School Fund an amount that is equal to the sum of all amounts distributed to school districts
 21 as provided by ORS 343.961 (2)(b) plus an amount to be annually retained by the department
 22 for emergencies. For the purpose of this subsection:**

23 **(a) The amount retained annually for emergencies may not exceed five percent of the
 24 sum of all amounts distributed to school districts as provided by ORS 343.961 (2)(b).**

25 **(b) The department may expend moneys retained for emergencies in compliance with
 26 rules adopted by the State Board of Education.**

27 **(c) The department may retain moneys for emergencies from year to year, but the total
 28 amount of moneys retained for emergencies may not exceed the total amount described in
 29 paragraph (a) of this subsection for the previous fiscal year.**

30 (4) To meet the requirements of ORS 346.010, the Department of Education shall receive from
 31 the State School Fund an amount that is equal to the product of the following:

32 (a) The average net operating expenditure per student of all school districts during the preced-
 33 ing school year; and

34 (b) The resident average daily membership of students enrolled in a program under ORS 346.010
 35 for one-half of the school day or more, exclusive of preschool children covered by ORS 343.533.

36 (5) The children covered by this section shall be enumerated in the average daily membership
 37 of the district providing the instruction but the district may not accrue credit for days' attendance
 38 of such children for the purpose of distributing state school funds.

39 (6) The liability of a district shall not exceed the amount established under this section even if
 40 the child is otherwise subject to ORS 336.575 and 336.580.

41 (7) The department shall credit amounts received from the State School Fund under this section
 42 to the appropriate subaccount in the Special Education Account.

43 **SECTION 3. The amendments to ORS 343.243 and 343.961 by sections 1 and 2 of this 2013
 44 Act apply to State School Fund distributions commencing with the 2013-2014 distributions.**

45 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
2 **July 1, 2013.**
3 _____