

Senate Bill 688

Sponsored by Senator BOQUIST (at the request of Building Excellent Schools Together)

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**.

Removes sunset on authority of institution of higher education to sponsor public charter school.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to sponsorship of public charter schools; amending ORS 338.055 and 338.075 and section 12, chapter 695, Oregon Laws 2011; and declaring an emergency.

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

SECTION 1. Section 12, chapter 695, Oregon Laws 2011, as amended by section 30, chapter 718, Oregon Laws 2011, is amended to read:

Sec. 12. *[(1)]* The amendments to ORS 338.055 and 338.075 by section 10, chapter 695, Oregon Laws 2011, and section 29, **chapter 718, Oregon Laws 2011**, *[of this 2011 Act]* become operative on *[July 1, 2017]* **the effective date of this 2015 Act**.

[(2) Nothing in the amendments to ORS 338.055 and 338.075 by section 10, chapter 695, Oregon Laws 2011, and section 29 of this 2011 Act affects the ability of an institution of higher education to continue to sponsor a public charter school if the institution of higher education became the sponsor of the public charter school prior to July 1, 2017.]

SECTION 2. ORS 338.055, as amended by section 10, chapter 695, Oregon Laws 2011, section 4, chapter 265, Oregon Laws 2013, and section 5, chapter 327, Oregon Laws 2013, is amended to read:

338.055. (1)(a) Upon receipt of a proposal submitted under ORS 338.045, the school district board shall determine whether the proposal is complete. A proposal is complete if the proposal addresses, at least minimally, each element required by ORS 338.045 (2) and (3).

(b) The school district board shall notify an applicant within 30 days after receipt of a proposal if the proposal is not complete and identify the specific elements of the proposal that are not complete. The school district board shall provide the applicant with a reasonable opportunity to complete the proposal.

(c) A proposal may be disapproved if the applicant has received a reasonable opportunity to complete the proposal and the applicant does not provide a proposal that is complete.

(d) If the school district board disapproves a proposal as provided by paragraph (c) of this subsection, the applicant may appeal the decision to the State Board of Education. The State Board of Education may review the proposal only for completeness and may determine that the proposal is:

(A) Not complete and uphold the decision of the school district board; or

(B) Complete and remand the proposal to the school district board for consideration.

(2) Within 60 days after receipt of a completed proposal, the school district board shall hold a

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 public hearing on the provisions of the proposal.

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

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

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

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

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

14 (e) The adequacy of the information provided as required by ORS 338.045 (2) and (3);

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

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

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

23 (i) The prior history, if any, of the applicant in operating a public charter school or in providing
24 educational services.

25 (4) The school district board must approve a proposal or state in writing the reasons for disap-
26 proving a proposal within 30 days after the public hearing held under subsection (2) of this section.

27 (5)(a) Written notice of the school district board's action shall be sent to the applicant. If the
28 proposal is not approved:

29 (A) The reasons for the denial and suggested remedial measures, if any, shall be clearly stated
30 in the notice sent by the school district board to the applicant; and

31 (B) The applicant may amend the proposal to address objections and any suggested remedial
32 measures and resubmit the proposal to the school district board.

33 (b) The school district board shall approve or disapprove the resubmitted proposal within 30
34 days after receiving it. If the proposal is not approved, the applicant may:

35 (A) Appeal the decision of the school district board to the State Board of Education[.] **as pro-**
36 **vided by ORS 338.075; or**

37 **(B) Submit a proposal to an institution of higher education as provided by ORS 338.075.**

38 (c) When the State Board of Education receives an appeal under this subsection, the board may
39 review the resubmitted proposal only to determine whether:

40 (A) The school district board used the process required by this section in denying the proposal;

41 (B) The proposal meets the criteria described in subsection (3) of this section; and

42 (C) The reasons stated by the school district board for the denial are valid.

43 (d) Following a review described in paragraph (c) of this subsection, the State Board of Educa-
44 tion may:

45 (A) Uphold the decision of the school district board to disapprove the proposal; or

1 (B) Remand the proposal to the school district board for reconsideration.

2 (6)(a) Individual elements in a public charter school proposal may be changed through the pro-
3 posal and chartering process by mutual agreement of the school district board and the applicant.

4 (b) If the school district board and the applicant are unable to agree on a change during the
5 proposal or chartering process, the school district board or the applicant may request mediation by
6 the State Board of Education.

7 (c) If the school district board and the applicant are unable to reach an agreement following
8 mediation as described in paragraph (b) of this subsection, the proposal submitted under ORS
9 338.045, without the change that was the subject of mediation, shall be the proposal that governs
10 the public charter school and:

11 (A) The parties may execute the charter for the public charter school based on the proposal;

12 (B) The applicant may withdraw the proposal; or

13 (C) The school district board may disapprove the proposal.

14 (7) Before an existing public school is converted to a public charter school, the proposal for the
15 conversion must be approved by the school district board of the public school.

16 (8) Entities described in ORS 338.005 (5) may not charge any fee to applicants for the proposal
17 process.

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

20 **SECTION 3.** ORS 338.075, as amended by section 29, chapter 718, Oregon Laws 2011, section
21 5, chapter 91, Oregon Laws 2012, and section 6, chapter 265, Oregon Laws 2013, is amended to read:

22 338.075. (1) If a school district board disapproves a proposal to establish a public charter school
23 following reconsideration of a proposal pursuant to ORS 338.055 (5), the applicant may:

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

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

27 (2)(a) If the State Board of Education reviews a decision of the school district board, as provided
28 by subsection (1) of this section, the State Board of Education may review the decision only to de-
29 termine whether:

30 (A) The school district board used the process required by ORS 338.055 in denying the proposal;

31 (B) The proposal meets the criteria described in ORS 338.055 (3); and

32 (C) The reasons stated by the school district board for the denial are valid.

33 (b) Following a review described in paragraph (a) of this subsection, the State Board of Educa-
34 tion may:

35 (A) Uphold the decision of the school district board to disapprove the proposal;

36 (B) Remand the proposal to the school district board for reconsideration if the school district
37 board and applicant agree to the remand; or

38 (C) Consider becoming the sponsor of the public charter school if the applicant agrees to the
39 sponsorship.

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

44 **(4)(a) An applicant seeking sponsorship by an institution of higher education may submit**
45 **to the institution of higher education the same proposal that was submitted to the school**

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

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

6 **(A) Approve or disapprove the proposal using the criteria described in ORS 338.055 (3)(b)**
 7 **to (h) and approve the proposal only if the institution of higher education may become a**
 8 **sponsor as provided by paragraphs (e) and (f) of this subsection; or**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 **SECTION 4. This 2015 Act being necessary for the immediate preservation of the public**
 42 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 43 **on its passage.**