

# House Bill 2560

Sponsored by Representative NEARMAN (Presession 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**.

Provides that any right to sue or to appeal or other judicial review related to public charter schools or provided by other law may not be waived by contract.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to contracts with public charter schools; creating new provisions; amending ORS 338.115;  
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 338.115 is amended to read:

6 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other  
7 public schools do not apply to public charter schools. However, the following laws do apply to public  
8 charter schools:

9 (a) Federal law;

10 (b) ORS 30.260 to 30.300 (tort claims);

11 (c) ORS 192.410 to 192.505 (public records law);

12 (d) ORS 192.610 to 192.690 (public meetings law);

13 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);

14 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

15 (g) ORS 326.565, 326.575 and 326.580 (student records);

16 (h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);

17 (i) ORS 329.045 (academic content standards and instruction);

18 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-  
19 tificate);

20 (k) The statewide assessment system developed by the Department of Education for mathematics,  
21 science and English under ORS 329.485 (2);

22 (L) ORS 336.840 (use of personal electronic devices);

23 (m) ORS 337.150 (textbooks);

24 (n) ORS 339.119 (consideration for educational services);

25 (o) ORS 339.141, 339.147 and 339.155 (tuition and fees);

26 (p) ORS 339.250 (9) (prohibition on infliction of corporal punishment);

27 (q) ORS 339.326 (notice concerning students subject to juvenile court petitions);

28 (r) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training  
29 on prevention and identification of abuse and sexual conduct);

30 (s) ORS 342.856 (core teaching standards);

31 (t) ORS chapter 657 (Employment Department Law);

**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 (u) ORS 659.850, 659.855 and 659.860 (discrimination);  
 2 (v) Any statute or rule that establishes requirements for instructional time provided by a school  
 3 during each day or during a year;  
 4 (w) Statutes and rules that expressly apply to public charter schools;  
 5 (x) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a  
 6 public body, as defined in ORS 174.109;  
 7 (y) Health and safety statutes and rules;  
 8 (z) Any statute or rule that is listed in the charter; and  
 9 (aa) This chapter.
- 10 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules  
 11 that apply only to school district boards, school districts and other public schools may apply to a  
 12 public charter school.
- 13 (3) If a statute or rule applies to a public charter school, then the terms “school district” and  
 14 “public school” include public charter school as those terms are used in that statute or rule.
- 15 (4) A public charter school may not violate the Establishment Clause of the First Amendment  
 16 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion  
 17 based.
- 18 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.
- 19 (b) For a public charter school that provides educational services under a cooperative agree-  
 20 ment described in ORS 338.080, the public charter school is in compliance with the requirements of  
 21 this subsection if the public charter school provides educational services under the cooperative  
 22 agreement to at least 25 students, without regard to the school districts in which the students are  
 23 residents.
- 24 (6)(a) A public charter school may sue or be sued as a separate legal entity.
- 25 **(b) Any right to sue or to an appeal or other judicial review that is provided by this**  
 26 **chapter or other law may not be waived by contract.**
- 27 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities  
 28 and employees of a sponsor acting in their official capacities are immune from civil liability with  
 29 respect to all activities related to a public charter school within the scope of their duties or em-  
 30 ployment.
- 31 (8) A public charter school may enter into contracts and may lease facilities and services from  
 32 a school district, education service district, public university listed in ORS 352.002, other govern-  
 33 mental unit or any person or legal entity.
- 34 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-  
 35 ability.
- 36 (10) A public charter school may receive and accept gifts, grants and donations from any source  
 37 for expenditure to carry out the lawful functions of the school.
- 38 (11) The school district in which the public charter school is located shall offer a high school  
 39 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter  
 40 school student who meets the district’s and state’s standards for a high school diploma, a modified  
 41 diploma, an extended diploma or an alternative certificate.
- 42 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate  
 43 issued by a public charter school grants to the holder the same rights and privileges as a high  
 44 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a  
 45 nonchartered public school.

1 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the  
 2 sponsor as specified in the charter.

3 (14) A public charter school may receive services from an education service district in the same  
 4 manner as a nonchartered public school in the school district in which the public charter school is  
 5 located.

6 **SECTION 2.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12,  
 7 chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53,  
 8 Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws  
 9 2011, section 5, chapter 682, Oregon Laws 2011, section 10, chapter 92, Oregon Laws 2012, section  
 10 7, chapter 98, Oregon Laws 2013, section 14, chapter 265, Oregon Laws 2013, section 9, chapter 267,  
 11 Oregon Laws 2013, section 2, chapter 67, Oregon Laws 2015, and section 48, chapter 245, Oregon  
 12 Laws 2015, is amended to read:

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- 24 (i) ORS 329.045 (academic content standards and instruction);
- 25 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-  
 26 tificate);
- 27 (k) ORS 329.496 (physical education);
- 28 (L) The statewide assessment system developed by the Department of Education for mathemat-  
 29 ics, science and English under ORS 329.485 (2);
- 30 (m) ORS 336.840 (use of personal electronic devices);
- 31 (n) ORS 337.150 (textbooks);
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- 39 (u) ORS chapter 657 (Employment Department Law);
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 42 during each day or during a year;
- 43 (x) Statutes and rules that expressly apply to public charter schools;
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- 1 (z) Health and safety statutes and rules;
- 2 (aa) Any statute or rule that is listed in the charter; and
- 3 (bb) This chapter.

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 44 located.

45 **SECTION 3. The amendments to ORS 338.115 by sections 1 and 2 of this 2017 Act apply**

1 to contracts entered into or renewed on or after the effective date of this 2017 Act.

2 SECTION 4. This 2017 Act being necessary for the immediate preservation of the public  
3 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect  
4 on its passage.

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