

Senate Bill 1047

Sponsored by Senator DEMBROW, Representative KENY-GUYER; Senators GELSER, MONNES ANDERSON, PROZANSKI, RILEY, TAYLOR, Representatives DOHERTY, GORSEK, HERNANDEZ, HOLVEY, LININGER, MALSTROM, NOSSE, PILUSO, SANCHEZ

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**.

Requires Department of Education to develop model plan for conducting tests for certain environmental hazards in facilities owned or leased by school districts or public charter schools where students or staff are present on regular basis and for reporting test results. Requires Oregon Health Authority to adopt rules regarding testing for certain environmental hazards by school districts and public charter schools.

Requires school districts and public charter schools to test for certain environmental hazards in facilities owned or leased by districts or schools where students or staff are present on regular basis. Requires school districts and public charter schools to report results of facility testing and to provide annual statement regarding facility testing conducted under plan.

Establishes Healthy School Facilities Fund. Appropriates moneys from fund to Department of Education for purpose of financial assistance to school districts and public charter schools in adoption, administration and enforcement of plans regarding testing for certain environmental hazards in facilities where students or staff are present on regular basis. Authorizes department to transfer to Healthy School Facility Fund up to \$2 million during 2019-2021 biennium from State School Fund moneys available to Office of School Facilities for school facility grants.

Expands types of assessment qualifying for Office of School Facilities hardship grants to include school district assessment for environmental hazards under plan.

A BILL FOR AN ACT

1
2 Relating to environmental conditions in school facilities; creating new provisions; amending ORS
3 326.125; and repealing ORS 332.166 and 332.167 and section 3, chapter 729, Oregon Laws 2015.

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

5 **SECTION 1. (1) A school district shall develop and adopt a plan for the testing of all**
6 **school facilities owned or leased by the school district where students or staff are present**
7 **on a regular basis. A public charter school shall develop and adopt a plan for the testing of**
8 **all school facilities owned or leased by the public charter school where students or staff are**
9 **present on a regular basis. The Department of Education, in consultation with the Oregon**
10 **Health Authority, the Department of Environmental Quality and other interested**
11 **stakeholders, shall develop and adopt a model plan to provide guidance to school districts and**
12 **public charter schools in developing and adopting plans under this section.**

13 **(2) A school district or public charter school shall submit a plan developed and adopted**
14 **under this section to the Department of Education for review and approval under this sec-**
15 **tion. The school district or public charter school shall annually review the plan. If the in-**
16 **formation contained in a school district or public charter school plan has changed since the**
17 **preceding annual review due to the acquisition or remodeling of a facility, the termination**
18 **of regular use of the facility by students and staff or a modification in the method, location,**
19 **scope, frequency or other aspects of testing, the school district or public charter school shall**
20 **submit a revised plan to the department for review and approval.**

21 **(3) A plan developed and adopted under this section shall, at a minimum, include 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 following:

2 (a) The identification of, and contact information for, a position within the adminis-
 3 tration of the school district or public charter school having responsibility for maintaining
 4 and overseeing performance of the plan.

5 (b) A list of all facilities of the school district or public charter school subject to the plan.

6 (c) Provisions regarding testing for elevated levels of radon.

7 (d) Provisions regarding testing for elevated levels of carbon monoxide.

8 (e) Provisions regarding testing for, and mitigation of, elevated levels of lead in water
 9 used for drinking or food preparation as provided by Oregon Health Authority rules.

10 (f) Provisions regarding testing for, and mitigation of, asbestos as provided by authority
 11 rules.

12 (g) Procedures for identifying the presence of mold.

13 (h) Provisions for carrying out integrated pest management as provided under ORS
 14 634.700 to 634.750.

15 (4)(a) The Oregon Health Authority shall adopt rules in consultation with the Department
 16 of Education, representatives of school districts and public charter schools and other inter-
 17 ested stakeholders for carrying out this section. The rules adopted by the authority under
 18 this subsection shall include, but need not be limited to, rules regarding:

19 (A) Testing for elevated levels of radon;

20 (B) Testing for elevated levels of carbon monoxide;

21 (C) Testing for, and mitigation of, elevated levels of lead in water used for drinking or
 22 food preparation; and

23 (D) Testing for, and the mitigation of, asbestos.

24 (b) In adopting rules under paragraph (a)(D) of this subsection, the authority shall give
 25 consideration to any requirements under federal law or the laws of this state. The rules shall
 26 include, but need not be limited to, requirements for the school district or public charter
 27 school to:

28 (A) Ensure that all custodial and maintenance personnel are properly trained regarding
 29 the rules;

30 (B) Ensure that any inspection, monitoring or mitigation activities are performed in
 31 compliance with the rules;

32 (C) Annually inform facility occupants, and the parents of minor students, of ongoing or
 33 planned inspections, response actions and reinspection, surveillance and other post-response
 34 actions regarding asbestos;

35 (D) Provide repairers, utility workers, pest control workers or other temporary workers
 36 appropriate notice regarding areas where asbestos is present or suspected to be present and
 37 the form of the asbestos or suspected asbestos;

38 (E) Post warning labels immediately adjacent to asbestos-containing building materials,
 39 suspected asbestos-containing building materials and suspected asbestos-containing materi-
 40 als that are located in boiler rooms or other routine maintenance areas;

41 (F) Make information regarding the testing and mitigation of asbestos under the plan
 42 available and provide notice of that availability; and

43 (G) Include provisions for avoiding conflicts of interest among personnel engaged in
 44 testing and remediation of asbestos.

45 (5) A school district or public charter school shall ensure that the person having re-

1 responsibility for maintaining and overseeing performance of the plan and adopted under this
2 section, or a designee of the person, receives appropriate training regarding:

3 (a) The health effects of asbestos;

4 (b) Appropriate methods for detecting, identifying and assessing asbestos-containing
5 materials;

6 (c) Options for the control of asbestos-containing building material;

7 (d) Asbestos management; and

8 (e) Requirements regarding asbestos imposed by the United States Department of Labor,
9 including but not limited to the Occupational Safety and Health Administration, or by the
10 United States Department of Transportation, the United States Environmental Protection
11 Agency, federal or state law or Oregon Health Authority rules.

12 (6) In addition to adoption of rules required under subsection (4) of this section, the
13 Oregon Health Authority, in consultation with the Department of Education, representatives
14 of school districts and public charter schools and other interested stakeholders, may adopt
15 rules to assist school districts and public charter schools in:

16 (a) Following appropriate procedures when testing for or mitigating the presence of
17 lead-based paint. In adopting the rules, the authority shall give consideration to any re-
18 quirements under federal law or the laws of this state.

19 (b) Limiting or reducing exposure to high levels of diesel engine exhaust gases at facili-
20 ties where diesel engine exhaust may be present.

21 (c) Effectively disseminating information regarding the identification of mold, including
22 but not limited to advice regarding how to recognize the presence of mold.

23 (7) The Oregon Health Authority shall develop information sheets for use by school dis-
24 tricts and public charter schools to inform staff, students, parents of minor students and
25 other interested stakeholders about substances that may present health concerns if present
26 in school facilities, including but not limited to elevated levels of lead in water used for
27 drinking or food preparation, lead-based paint and mold.

28 (8) The Department of Education, in consultation with the Oregon Health Authority,
29 representatives of school districts and public charter schools and other interested
30 stakeholders, shall make opportunities for professional development available to school dis-
31 trict and public charter school staff regarding plan and information requirements under this
32 section and the annual statement required by section 2 of this 2017 Act.

33 **SECTION 2.** (1) A school district or public charter school shall make the results of tests
34 conducted under a plan described in section 1 of this 2017 Act available to the public no later
35 than five days business days after receiving the test results. The test result information
36 must include, but need not be limited to a detailed explanation of the significance of the test
37 results. The school district or public charter school shall make the test results available by:

38 (a) Posting the test results on a website maintained by the school district or public
39 charter school;

40 (b) Sending electronic mail to staff, students and parents of minor students for whom the
41 school district or public charter school has electronic mail addresses on file; and

42 (c) Making the test results available in printed form at the administrative headquarters
43 for the school district or public charter school.

44 (2) A school district or public charter school shall provide an annual statement regarding
45 the plan developed and adopted by the school district or public charter school under section

1 **1 of this 2017 Act. The school district or public school shall provide the statement to:**

2 **(a) The governing body for the school district or public charter school;**

3 **(b) The parents of minor students; and**

4 **(c) Any students 18 years of age or older.**

5 **(3) The annual statement under subsection (2) of this section shall include, but need not**
 6 **be limited to the following information regarding the plan developed and adopted by the**
 7 **school district or public charter school under section 1 of this 2017 Act:**

8 **(a) Identification of, and contact information for, the position within the administration**
 9 **of the school district or public charter school having responsibility for maintaining and**
 10 **overseeing performance of the plan;**

11 **(b) Information regarding the number and general type of inquiries received from staff,**
 12 **students or their parents, or other stakeholders;**

13 **(c) Information regarding where copies of the plan are available;**

14 **(d) A certification that the school district or public charter school is in compliance with**
 15 **testing requirements under the plan;**

16 **(e) Information about how to obtain the results of tests conducted under the plan; and**

17 **(f) A summary of major mitigation activities conducted under the plan since the preced-**
 18 **ing annual statement.**

19 **(4) A school district or public charter school shall post the annual statement described**
 20 **in subsection (3) of this section on a website maintained by the school district or public**
 21 **charter school and make the annual statement available in printed form at the administra-**
 22 **tive headquarters of the school district or public charter school.**

23 **(5) The Department of Education shall adopt, in consultation with the Oregon Health**
 24 **Authority, representatives of school districts and public charter schools and other interested**
 25 **stakeholders, rules for carrying out this section.**

26 **SECTION 3. (1) The Healthy School Facilities Fund is established in the State Treasury,**
 27 **separate and distinct from the General Fund. Interest earned by the Healthy School Facili-**
 28 **ties Fund shall be credited to the fund.**

29 **(2) Moneys in the fund are continuously appropriated to the Department of Education for**
 30 **the purpose of providing financial assistance to school districts and public charter schools**
 31 **in carrying out the adoption, administration and enforcement of plans described in section**
 32 **1 of this 2017 Act, including but not limited to the conducting of testing and mitigation ac-**
 33 **tivities.**

34 **SECTION 4. Notwithstanding ORS 327.008, for the biennium beginning July 1, 2019, the**
 35 **Department of Education may transfer up to \$2 million of the moneys available to the de-**
 36 **partment from the State School Fund for facility grants as provided by ORS 327.008 (7) to**
 37 **the Healthy School Facilities Fund for use by the department as provided in section 3 of this**
 38 **2017 Act.**

39 **SECTION 5. ORS 326.125 is amended to read:**

40 **326.125. For the purpose of assisting school districts with capital costs, the Office of School**
 41 **Facilities is established within the Department of Education. The office shall be responsible for:**

42 **(1) Distributing hardship grants to school districts with facility needs. Grants awarded under**
 43 **this section may not exceed \$500,000 and shall be provided to school districts based on the order in**
 44 **which the Department of Education receives the completed applications for the grants. A school**
 45 **district may be eligible for a grant under this subsection if the school district meets requirements**

1 established by the State Board of Education by rule, including any requirements to provide matching
 2 funds.

3 (2) Providing technical assistance and establishing and maintaining standards for facilities as-
 4 sessments and long-range facilities plans for school districts.

5 (3) Administering a certification program for qualified providers of technical assistance for the
 6 purposes described in subsection (2) of this section.

7 (4) Providing grants to school districts for the cost of technical assistance for the purposes de-
 8 scribed in subsection (2) of this section. The State Board of Education may establish by rule re-
 9 quirements for a school district to receive a grant under this subsection. Grants for a school district
 10 under this subsection may not exceed:

11 (a) \$20,000 for a facilities assessment;

12 (b) \$25,000 for a long-range facilities plan; *[and]*

13 **(c) \$25,000 for an assessment of school facilities for potential environmental hazards un-
 14 der section 1 of this 2017 Act; and**

15 *[(c)]* **(d)** \$25,000 for a seismic assessment or other specialized assessment.

16 (5) Maintaining the Oregon School Facilities Database. The database must include information
 17 that:

18 (a) Assists with analyzing, planning and prioritizing school capital improvement needs for school
 19 districts by providing district-to-district and school-to-school comparisons; and

20 (b) Is required by the State Board of Education by rule.

21 (6) Administering the grant program described in ORS 286A.801.

22 **SECTION 6. ORS 332.166 and 332.167 and section 3, chapter 729, Oregon Laws 2015, are
 23 repealed.**

24 **SECTION 7. (1) The Department of Education shall develop and adopt a model plan under
 25 section 1 of this 2017 Act and make the plan available to school districts and public charter
 26 schools no later than January 1, 2019.**

27 **(2) Each school district and public charter school shall submit a plan meeting the re-
 28 quirements of sections 1 and 2 of this 2017 Act to the Department of Education no later than
 29 180 days after the department completes the adoption of a model plan under subsection (1)
 30 of this section. A plan must include a schedule for the implementation of testing. However,
 31 except for the purpose of evaluating mitigation efforts, the department may not require a
 32 school district or public charter school to conduct testing for elevated levels of radon at a
 33 facility within 10 years of any testing for elevated levels of radon at the facility conducted
 34 under ORS 332.167 (2015 Edition).**