Senate Bill 239

Sponsored by Senator THATCHER (at the request of Representative Kevin Mannix) (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.

Allows post-secondary institution of education to be sponsor of public charter school.

Modifies proposal requirements for public charter school and process for reviewing proposal.

Extends length of initial and renewed charter terms.

Increases percentage of students who may enroll in virtual public charter school before approval is required for student to enroll.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT


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

SECTION 1. ORS 338.005 is amended to read:

ORS 338.005. As used in this chapter, unless the context requires otherwise:

(1) “Applicant” means any person or group that develops and submits a written proposal for a public charter school to [a sponsor] an entity described in subsection (5) of this section.

(2) “Post-secondary institution of education” means a community college operated under ORS chapter 341, a public university listed in ORS 352.002 or the Oregon Health and Science University.

(3) “Public charter school” means an elementary or secondary school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant and operating pursuant to this chapter.

(4) “Remote and necessary school district” means a school district that offers kindergarten through grade 12 and has:

(a) An average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal year of less than 110; and

(b) A school that is located, by the nearest traveled road, more than 20 miles from the nearest school or from a city with a population of more than 5,000.

(5) “Sponsor” means:

(a) The board of the common school district or the union high school district in which the public charter school is located that has developed a written charter with an applicant to create a public charter school.

(b) A post-secondary institution of education in this state.

(c) The State Board of Education pursuant to ORS 338.075.

(6) “Virtual public charter school” means a public charter school that provides online courses.

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.

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(b) “Virtual public charter school” does not include a public charter school that primarily serves
students in a physical location.

SECTION 2. ORS 338.035 is amended to read:

ORS 338.035. (1) A public charter school may be established:
(a) As a new public school;
(b) As a virtual public charter school;
(c) From an existing public school or a portion of the school; or
(d) From an existing alternative education program, as defined in ORS 336.615.
(2)(a) Before a public charter school may operate as a public charter school, it must:
(A) Be approved by [a sponsor] an entity described in ORS 338.005 (5);
(B) Be established as a nonprofit organization under the laws of Oregon; and
(C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal
Revenue Code.

(b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and
(C) of this subsection do not apply to:
(A) A school in a school district that is composed of only one school; and
(B) A school in a school district that is a remote and necessary school district on the date the
school first begins operation as a public charter school.
(3)(a) Except for a public charter school that is not required to comply with subsection (2)(a)(B)
and (C) of this section as provided by subsection (2)(b) of this section,[;]
(A) A member of the school district board of the school district within which a public charter
school is located may not be a voting member of the public charter school governing body.
(B) A member of the governing body of the sponsor of a public charter school may not
be a voting member of the public charter school governing body.

(b) A member of the school district board of the school district within which a public charter
school is located or of the governing body of the sponsor of the public charter school may act
in an advisory capacity on the public charter school governing body.

(4) An applicant seeking to establish a public charter school shall submit a proposal pursuant
to ORS 338.045 to [the school district board of the school district within which the public charter
school will be located by the date identified by the school district board]. The school district board] an
entity described in ORS 338.005 (5)(a) or (b). The entity shall identify a date that is at least 180
days prior to the date on which the public charter school would begin operating and that provides
a reasonable period of time for the [school district board] entity to complete the approval process
described in ORS 338.055 and for the public charter school to begin operating by the beginning of
a school year. An applicant may consult with the [school district board] entity prior to submitting
a proposal, and the [school district board] entity may require an applicant to submit a letter of in-
tent within a reasonable period of time prior to submitting a proposal.

(5) An applicant seeking to establish a public charter school shall provide to the State Board
of Education a copy of any proposal submitted to [a school district board] an entity described in
ORS 338.005 (5)(a) or (b) under ORS 338.045 and a copy of any subsequent approval by the [school
district board] entity.

(6)(a) One or more, but not all, schools in a school district may become public charter schools.
(b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is com-
posed of only one school may become a public charter school. For a public charter school that is
the only school in the school district, the public charter school and the school district may be con-
sidered to be a single legal entity for the purposes of this chapter if:

(A) The public charter school is not required to comply with subsection (2)(a)(B) and (C) of this section;
(B) All of the members of the school district board are voting members of the public charter school governing body as allowed by subsection (3)(a) of this section;
(C) The school district and the public charter school share employees; and
(D) The school district and the public charter school share assets and liabilities.

(7)(a) An entity described in ORS 338.005 [(4) (5)] may not approve a public charter school proposal that authorizes the conversion of any private school that is tuition based to a public charter school.
(b) Notwithstanding paragraph (a) of this subsection, an entity described in ORS 338.005 [(4) (5)] may authorize the conversion of an existing alternative education program, as defined in ORS 336.615, to a public charter school.

(8) An entity described in ORS 338.005 [(4) (5)] may not approve a proposal for a public charter school that is affiliated with a nonpublic sectarian school or a religious institution.

SECTION 3. ORS 338.045 is amended to read:
ORS 338.045. (1) An applicant seeking to establish a public charter school shall submit a written proposal to [a school district board] an entity described in ORS 338.005 (5)(a) or (b).
(2) The proposal shall include, but need not be limited to:
(a) The identification of the applicant;
(b) The name of the proposed public charter school;
(c) A description of the philosophy and mission of the public charter school;
(d) A description of the curriculum of the public charter school;
(e) A description of the expected results of the curriculum and the verified methods of measuring and reporting objective results that will show the growth of knowledge of students attending the public charter school and allow comparisons with public schools;
(f) The governance structure of the public charter school;
(g) The projected enrollment to be maintained and the ages or grades to be served;
(h) The target population of students the public charter school will be designed to serve;
(i) A description of any distinctive learning or teaching techniques to be used in the public charter school;
(j) The legal address, facilities and physical location of the public charter school, if known;
(k) A description of admission policies and application procedures;
(L) The statutes and rules that shall apply to the public charter school;
(m) The proposed budget and financial plan for the public charter school and evidence that the proposed budget and financial plan for the public charter school are financially sound;
(n) A description of the financial management system for the public charter school, an explanation of how the financial management system will meet the requirements of ORS 338.095 (1) and a plan for having the financial management system in place at the time the school begins operating;
(o) The standards for behavior and the procedures for the discipline, suspension or expulsion of students;
(p) The proposed school calendar for the public charter school, including the length of the school day and school year;
(q) A description of the proposed staff members and required qualifications of teachers at the public charter school;
(r) The date upon which the public charter school would begin operating;
(s) The arrangements for any necessary special education and related services provided pursuant to ORS 338.165 for children with disabilities who may attend the public charter school;
(t) Information on the manner in which community groups may be involved in the planning and development process of the public charter school;
(u) The term of the charter;
(v) The plan for performance bonding or insuring the public charter school, including buildings and liabilities;
(w) A proposed plan for the placement of public charter school teachers, other school employees and students of the public charter school upon termination or nonrenewal of a charter;
(x) The manner in which the program review and fiscal audit will be conducted; and
(y) In the case of an existing public school being converted to charter status:
  (A) The alternative arrangements for students who choose not to attend the public charter school and for teachers and other school employees who choose not to participate in the public charter school; and
  (B) The relationship that will exist between the public charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any.
(3) In addition to the requirements of subsection (2) of this section:
   (a) The school district board may require any additional information the board considers relevant to the formation or operation of a public charter school.
   (b) Each member of a proposed public charter school governing body must provide an acknowledgment of understanding related to the standards of conduct and the liabilities of a director of a nonprofit organization, as those standards and liabilities are described in ORS chapter 65, if the public charter school is organized as required by ORS 338.035 (2)(a)(B) and (C).
(4) At the request of the applicant, the [school district board] entity described in ORS 338.005 (5)(a) or (b) may provide technical assistance in developing the proposal for operation of the public charter school.
(5) School districts, education service districts and other public bodies, as defined in ORS 174.109, shall make available to the public lists of vacant and unused public buildings and portions of buildings that may be suitable for the operation of a public charter school. The lists shall be provided to developing or operating public charter schools within 30 days of a written request.
Nothing in this subsection requires the owner of a building on the list to sell or lease the building or any portion of the building to a public charter school or a public charter school governing body.

SECTION 4. ORS 338.055 is amended to read:
338.055. (1)(a) Upon receipt of a proposal submitted under ORS 338.045, the [school district board] entity described in ORS 338.005 (5)(a) or (b) 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] entity shall notify an applicant within [30] 10 business 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] entity shall provide the applicant with a reasonable opportunity to complete the proposal. If the entity fails to notify the applicant that the proposal is not complete within 10 business days after receipt of the proposal, the proposal shall be considered complete.
(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] entity 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] entity; or

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

(2) Within 60 days after receipt of a completed proposal, the [school district board] entity shall hold a public hearing on the provisions of the proposal.

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

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

(a) Evidence that the proposed public charter school has sufficient enrollment demand to meet the school’s enrollment projections and financial plan;

(b) The demonstrated financial stability of likelihood that the public charter school will be financially sustainable, including the demonstrated ability of the school to have a knowledge of sound financial management [system that is in place at the time the school begins operating and that meets the requirements of ORS 338.095 (1)] systems by the applicant;

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

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

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

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

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

[(h)] (g) In the case of a proposal for the conversion of an existing public school to a public charter school, whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school; and

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

(4) The [school district board] entity must approve a proposal or state in writing the reasons for disapproving a proposal within 30 days after the public hearing held under subsection (2) of this section.

(5)(a) Written notice of the [school district board’s] entity’s action shall be sent to the applicant. If the proposal is not approved:

(A) The reasons for the denial and suggested remedial measures, if any, shall be clearly stated in the notice sent by the [school district board] entity to the applicant; and
(B) The applicant may amend the proposal to address objections and any suggested remedial measures and resubmit the proposal to the [school district board] entity.

(b) The [school district board] entity shall approve or disapprove the resubmitted proposal within 30 days after receiving it. If the proposal is not approved, the applicant may appeal the decision of the [school district board] entity to the State Board of Education.

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

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

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

(C) The reasons stated by the [school district board] entity for the denial are based on a reasonable evaluation of the criteria established in this section.

(d) Following a review described in paragraph (c) of this subsection, the State Board of Education may:

(A) Uphold the decision of the [school district board] entity to disapprove the proposal; or

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

(B) Offer the proposal to a post-secondary institution of education for approval.

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

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

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

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

(B) The applicant may withdraw the proposal; or

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

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

(8) (7) Entities described in ORS 338.005 [(4)] (5) may not charge any fee to applicants for the proposal process.

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

SECTION 5. ORS 338.065 is amended to read:

338.065. (1)(a) Upon approval of a proposal by [a school district board] an entity described in ORS 338.005 [(5)(a) or (b)] under ORS 338.055, the [school district board] entity shall become the sponsor of the public charter school.

(b) Pursuant to ORS 338.075 [(2) or (3)], the State Board of Education shall become the sponsor of the public charter school.

(2) The sponsor and the applicant shall develop a written charter that contains the provisions of the proposal that have been duly approved by the sponsor and public charter school governing body. [As provided by ORS 338.055 (6),] The sponsor and the applicant may agree to change elements of the proposal prior to incorporating them into the charter. The sponsor may not require ele-
ments in the written charter that are not explicitly stated in the approved charter proposal.

The charter, when duly executed by the sponsor and the public charter school governing body, shall act as the legal authorization for the establishment of the public charter school. The charter shall be legally binding on both the sponsor and the public charter school governing body.

(3) The sponsor and the public charter school governing body may amend a charter by joint agreement.

(4)(a) The initial charter shall be in effect for a period of not [more than five] less than 10 years and shall be renewed upon the authorization of the sponsor using the process established under this section.

(b) The first renewal of a charter shall be for the same time period as the initial charter.

(c) Subsequent renewals of a charter shall be for a minimum of [five years but may not exceed] 10 years.

(5)(a) The renewal of a charter shall use the process required by this section.

(b) The public charter school governing body shall submit a written renewal request to the sponsor for consideration at least 180 days prior to the expiration of the charter.

(c) A public charter school that is in compliance with the terms of the charter and that has not been notified by the sponsor of a potential breach of the charter shall be renewed.

(d) For a public charter school that has been notified by the sponsor of a potential breach of the charter contract, the sponsor shall:

((c)) (A) Within 45 days after receiving a written renewal request from a public charter school governing body, [the sponsor shall] hold a public hearing regarding the request for renewal.

((d)) (B) Within 30 days after the public hearing, [the sponsor shall] approve the renewal of the charter or state in writing the reasons for denying the renewal of the charter.

(e) If the sponsor approves the renewal of the charter, the sponsor and the public charter school governing body shall negotiate a new charter within 90 days after the date on which the sponsor approved the renewal of the charter unless the sponsor and the public charter school governing body agree to an extension of the time period. Notwithstanding the time period specified in the charter, an expiring charter shall remain in effect until a new charter is negotiated.

(f) If the sponsor does not renew the charter, the public charter school governing body may address the reasons stated under paragraph ((d)) (B) of this subsection and any remedial measures suggested by the sponsor and submit a revised request for renewal to the sponsor.

(g) Notwithstanding paragraphs (b) to (f) of this subsection, a sponsor and a public charter school governing body may agree in the charter of the school to a timeline for renewing the charter that is different from the timeline required by paragraphs (b) to (f) of this subsection.

(6)(a) If the sponsor does not renew the charter based on the revised request for renewal submitted under subsection (5)(f) of this section, the public charter school governing body may appeal the decision of the sponsor to the State Board of Education for a review of whether the sponsor used the process required by this section in denying the renewal of the charter.

(b) If the state board finds that the sponsor used the process required by this section in denying the request for renewal, the state board shall affirm the decision of the sponsor. A public charter school governing body may seek judicial review of an order of the state board pursuant to ORS 183.484.

(c) If the state board finds that the sponsor did not use the process required by this section in denying the request for renewal, the state board shall order the sponsor to reconsider the request for renewal.
(d) If after reconsideration pursuant to paragraph (c) of this subsection the sponsor does not renew the charter, the public charter school governing body may seek judicial review of an order of the sponsor pursuant to ORS 183.484.

(7) If the State Board of Education is the sponsor of a public charter school and the state board does not renew the charter based on the revised request for renewal submitted under subsection (5)(f) of this section, the public charter school governing body may seek judicial review of an order of the state board pursuant to ORS 183.484 for a review of whether the state board used the process required by this section in denying the request for renewal.

(8)(a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether the public charter school:

(A) Is in compliance with this chapter and all other applicable state and federal laws;
(B) Is in compliance with the charter of the public charter school;
(C) Is meeting or working toward meeting the student performance goals and agreements specified in the charter or any other written agreements between the sponsor and the public charter school governing body;
(D) Is fiscally stable and has used the sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter under this section; and
(E) Is in compliance with any renewal criteria specified in the charter of the public charter school.

(b) The sponsor shall base the renewal evaluation described in paragraph (a) of this subsection primarily on a review of the public charter school's annual performance reports, annual audit of accounts and annual site visit and review as required by ORS 338.095 and any other information mutually agreed upon by the public charter school governing body and the sponsor.

SECTION 6. The amendments to ORS 338.065 by section 5 of this 2023 Act apply to charters entered into or renewed on or after the effective date of this 2023 Act.

SECTION 7. ORS 338.075 is amended to read:

338.075. (1) If a school district board disapproves a proposal to establish a public charter school following reconsideration of a proposal pursuant to ORS 338.055 (5) and no post-secondary institution of education decides to approve the proposal, the applicant may request that the State Board of Education review the decision of the school district board. The State Board of Education may become the sponsor. The State Board of Education may become a sponsor only if the applicant agrees to the sponsorship.

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

(A) The school district board used the process required by ORS 338.055 in denying the proposal;
(B) The proposal meets the criteria described in ORS 338.055 (3); and
(C) The reasons stated by the school district board for the denial are valid.

(b) Following a review described in paragraph (a) of this subsection, the State Board of Education may:

(A) Uphold the decision of the school district board to disapprove the proposal;
(B) Remand the proposal to the school district board for reconsideration if the school district board and applicant agree to the remand; or

[8]
[(C) Consider becoming the sponsor of the public charter school if the applicant agrees to the sponsorship.]}

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

SECTION 8. ORS 338.105 is amended to read:

338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the following grounds:

(a) Failure to meet the terms of an approved charter or this chapter.
(b) Failure to meet the requirements for student performance stated in the charter.
(c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.
(d) Failure to maintain insurance as described in the charter.
(e) Failure to maintain financial stability.
(f) Failure to maintain, for one or more consecutive years, a sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter under ORS 338.065.

(2)(a) If a charter is terminated under subsection (1) of this section, the sponsor shall notify the public charter school governing body at least 60 days prior to the proposed effective date of the termination. The notice shall state the grounds for the termination.

(b) If the grounds for termination include failure to maintain financial stability or failure to maintain a sound financial management system, the sponsor and the public charter school may agree to develop a plan to correct deficiencies. Under a plan to correct deficiencies:

(A) The public charter school may attempt to correct any deficiencies related to financial stability or to a sound financial management system by a date identified by the sponsor, which may not be less than 60 days from the date of the notice;

(B) The proposed effective date of the termination may be extended to the date identified under subparagraph (A) of this paragraph;

(C) The sponsor may withhold up to 50 percent of the moneys owed to the public charter school while the public charter school is on the plan to correct deficiencies unless the withholding would create an undue hardship, as determined pursuant to rules of the State Board of Education; and

(D) The sponsor must hold in trust any moneys withheld under subparagraph (C) of this paragraph until:

(i) The public charter school complies with the plan to correct deficiencies, at which time the public charter school is entitled to the moneys held in trust; or

(ii) The public charter school fails to comply with the plan to correct deficiencies, at which time the charter is terminated and the public charter school forfeits any claim to the moneys held in trust.

(c) A deadline to correct deficiencies under paragraph (b)(A) of this subsection may be extended by mutual agreement of the sponsor and the public charter school.

(d) The public charter school governing body may request a hearing by the sponsor in relation to a termination of the charter or a plan to correct deficiencies.

(3) A public charter school governing body may appeal a decision of a sponsor under this section. The appeal shall be to:

(a) The State Board of Education if the sponsor is an entity described in ORS 338.005 [(4)(a)
(5)(a) or (b). The State Board of Education shall:

(A) Review only:

(i) The grounds for termination under this section as stated by the [school district board] sponsor; or

(ii) A plan to correct deficiencies; and

(B) Adopt by rule procedures to ensure a timely appeals process to prevent disruption of students’ education.

(b) The circuit court pursuant to ORS 183.484 if the sponsor is the State Board of Education.

(4)(a) Notwithstanding subsection (2) of this section, a sponsor may terminate a charter immediately and close a public charter school if the public charter school is endangering the health or safety of the students enrolled in the public charter school.

(b) The public charter school governing body may request a hearing from the sponsor on the termination of the charter under this subsection. The sponsor shall hold a hearing within 10 days after receiving the request.

(c) The public charter school governing body may appeal a decision of a sponsor under this subsection to the State Board of Education. The State Board of Education shall hold a hearing within 10 days after receiving the appeal request.

(d) Throughout the appeals process, the public charter school shall remain closed at the discretion of the sponsor unless the State Board of Education orders the sponsor to open the public charter school and not terminate the charter.

(5) Termination of a charter shall not abridge the public charter school’s legal authority to operate as a private or nonchartered public school.

(6) If a charter is terminated or a public charter school is dissolved:

(a) The assets of the public charter school that were purchased with public funds shall be given to the State Board of Education. The State Board of Education may disburse the assets of the public charter school to school districts or other public charter schools.

(b) All student education records of the public charter school shall be transferred to the administrative office of the school district in which the public charter school was located.

(7) A public charter school governing body may only terminate a charter, dissolve or close a public charter school at the end of a semester. If a charter is terminated by the public charter school governing body or a public charter school is closed or dissolved, the public charter school governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the termination, closure or dissolution.

SECTION 9. ORS 338.120 is amended to read:

338.120. (1) In addition to any other requirements of this chapter for a public charter school, a virtual public charter school must have:

(a) A plan for academic achievement that addresses how the school will improve student learning and meet academic content standards required by ORS 329.045.

(b) Performance criteria the school will use to measure the progress of the school in meeting the academic performance goals set by the school for its first five years of operation.

(c) A plan for implementing the proposed education program of the school by directly and significantly involving parents and guardians of students enrolled in the school and involving the professional employees of the school.

(d) A budget, business plan and governance plan for the operation of the school.

(e) In the charter of the school, a requirement that the school:
(A) Monitor and track student progress and attendance; and
(B) Provide student assessments in a manner that ensures that an individual student is being assessed and that the assessment is valid.

(f) Notwithstanding ORS 338.135 (7), a plan to ensure that:
(A) All superintendents, assistant superintendents and principals of the school are licensed to administer by the Teacher Standards and Practices Commission; and
(B) Teachers who are licensed to teach by the Teacher Standards and Practices Commission teach at least 95 percent of the school's instructional hours.

(g) A plan for maintaining student records and school records, including financial records, at a designated central office of operations that is located:
(A) If the sponsor is a school district, within the school district that is the sponsor and as specified in the charter of the school; [or]
(B) If the sponsor is a post-secondary institution of education, at an office located in Oregon and as specified in the charter of the school.

(h) A plan to provide equitable access to the education program of the school by ensuring that each student enrolled in the school:
(A) Has access to and use of computer and printer equipment as needed;
(B) Is offered an Internet service cost reimbursement arrangement under which the school reimburses the parent or guardian of the student, at a rate set by the school, for the costs of obtaining Internet service at the minimum connection speed required to effectively access the education program provided by the school; or
(C) Has access to and use of computer and printer equipment and is offered Internet service cost reimbursement.

(i) A plan to provide access to computer and printer equipment and the Internet service cost reimbursement as described in paragraph (h) of this subsection by students enrolled in the school who are from families that qualify as low-income under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(j) A plan to conduct school-sponsored optional educational events at least six times each school year at locations selected to provide convenient access to all students enrolled in the school who want to participate.

(k) A plan to conduct meetings at least twice a week between teachers and students enrolled in the school, either in person or through the use of conference calls or other technology.

(L) A plan to provide opportunities for face-to-face meetings between teachers and students enrolled in the school at least six times each school year.

(m) A plan to provide, at the time of a student’s enrollment, written notice to the sponsor and, if different, to the school district where the student is a resident. Notification must be provided within 10 days after enrollment and must include:
(A) The name, age and address of the student; and
(B) The name of the school in which the student was formerly enrolled.

(n) A plan to provide, at the time of a student’s withdrawal for a reason other than graduation from high school, written notice to the sponsor and, if different, to the school district where the student is a resident. Notification must be provided within 10 days after withdrawal and must include:
(A) The name, age and address of the student;
(B) The reason the student no longer is enrolled and, if applicable, the name of the school in
which the student will enroll, if known to the virtual public charter school; and
(C) The last day on which the student was enrolled at the virtual public charter school.
(o) An agreement to provide a student’s education records to the student’s resident school dis-
trict or to the sponsor, upon request of the resident school district or sponsor.
(2) For a virtual public charter school:
(a) A person who is a member of the [school district board] governing body for the sponsor of
the virtual public charter school may not be:
(A) An employee of the virtual public charter school;
(B) A member of the governing body of the virtual public charter school; or
(C) An employee or other representative of any third-party entity with which the virtual public
charter school has entered into a contract to provide educational services.
(b) A person who is a member of the governing body of the virtual public charter school may
not be an employee of a third-party entity with which the virtual public charter school has entered,
or intends to enter, into a contract to provide educational services.
(3) If a virtual public charter school enters into a contract with a third-party entity to provide
educational services for the virtual public charter school:
(a) No employee or member of the governing board of the third-party entity may attend an
executive session of the [school district board of the school district that is] governing body of the
sponsor of the virtual public charter school;
(b) An employee of the virtual public charter school may not promote the sale or benefits of
private supplemental services or classes offered by the third-party entity;
(c) The educational services provided by the third-party entity must be consistent with state
standards and requirements, and must be changed on the same timelines that changes are imposed
on the nonvirtual public charter schools of this state; and
(d) The virtual public charter school must have on file the third-party entity's budget for the
provision of educational services and that budget must itemize:
(A) The salaries of supervisory and management personnel and consultants who are providing
educational or related services for a public charter school in this state; and
(B) The annual operating expenses and profit margin of the third-party entity for providing ed-
ucational services to a public charter school in this state.
(4)(a) The sponsor or a member of the public may request access to any of the documents de-
scribed in subsections (1) and (3)(d) of this section that are public records, as provided by ORS
192.311 to 192.478.
(b) Upon request by a sponsor or a member of the public, a virtual public charter school must
provide reasonable access to the documents described in subsections (1) and (3)(d) of this section
that are public records, as provided by ORS 192.311 to 192.478. The documents may be provided
electronically.
SECTION 10. ORS 338.125 is amended to read:
338.125. (1) Student enrollment in a public charter school is voluntary.
(2)(a) All students who reside in the school district in which the public charter school is located
are eligible for enrollment in the public charter school if space is available.
(b) Students who do not reside in the school district in which the public charter school is lo-
located are eligible for enrollment in the public charter school if space is available and subject to
subsection (4) of this section.

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, gender identity, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability. A public charter school may implement a weighted lottery that favors historically underserved students as provided by subsection (3)(a) of this section.

(3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applications from students exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process. For the purpose of ameliorating the impact of discrimination against historically underserved students, an equitable lottery selection process may include weights that favor historically underserved students. As used in this paragraph, “historically underserved students” are students who are at risk because of any combination of their race, sex, sexual orientation, gender identity, ethnicity, disability, income level, proficiency in the English language, socioeconomic status or geographic location.

(b)(A) A public charter school may give priority for admission to students who reside within the attendance boundaries that were in effect at the time a school district closed a nonchartered public school if:

(i) The public charter school began to operate not more than two years after the nonchartered public school was closed;

(ii) The school district that closed the nonchartered public school is the sponsor of the public charter school;

(iii) The public charter school is physically located within the attendance boundaries of the closed nonchartered public school; and

(iv) The school district board, through board action, approved the public charter school giving priority as described in this paragraph.

(B) Nothing in this paragraph requires an amendment to a charter. A school district board may take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of a charter.

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

(A) Were enrolled in the prior year in the public charter school;

(B) Were enrolled in a public preschool or prekindergarten program operated by the public charter school;

(C) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year;

(D) Are at risk because the student has an economic or academic disadvantage that requires special services or assistance, including students who:

(i) Are from economically disadvantaged families;

(ii) Are identified as having special educational needs;

(iii) Are limited in proficiency in the English language;

(iv) Are at risk of dropping out of high school; or

(v) Do not meet minimum standards of academic proficiency; or

(E) If the public charter school is a party to a cooperative agreement described in ORS 338.080, reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.
(4)(a) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the virtual public charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal guardian or person in parental relationship with the student must provide the following notices to the school district where the student is a resident:

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

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

(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than six percent of the students who reside in a school district are enrolled in virtual public charter schools that are not sponsored by the school district, a student who is a resident of the school district must receive approval from the school district before enrolling in a virtual public charter school. A school district is not required to give approval if more than six percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district. If a student enrolled in a virtual public charter school that is not sponsored by the school district becomes no longer enrolled, the school district must allow another student to take that student’s place.

(B) For the purpose of determining whether more than six percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district, the school district board shall include any students who:

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

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

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

(e) If the school district does not give approval under paragraph (b) of this subsection, the school district must provide information to the parent, legal guardian or person in parental relationship with the student about the right to appeal the decision to the State Board of Education and other online options available to the student. If an appeal is made to the State Board of Education, the state board must issue a decision within 30 days of the submission of the appeal.

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

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

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

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

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

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

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

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

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

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

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

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

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

SECTION 11. ORS 338.135, as amended by section 29, chapter 81, Oregon Laws 2022, is amended to read:

338.135. (1) Employee assignment to a public charter school shall be voluntary.

(2)(a) A public charter school or the sponsor of the public charter school is considered the employer of any employees of the public charter school. If a school district board is not the sponsor of the public charter school, the school district board may not be the employer of the employees of the public charter school and the school district board may not collectively bargain with the employees of the public charter school. The public charter school governing body shall control the selection of employees at the public charter school.

(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts with a for-profit entity to provide educational services through the virtual public charter school, the for-profit entity may not be the employer of any employees of the virtual public charter school unless:

(A) The employee is an administrator who does not have any teaching responsibilities; and

(B) Both the executive officer of the sponsor and the public charter school governing body approve employment by the for-profit entity. The executive officer or governing body may choose to grant approval under this subparagraph:

(i) For all employees of the for-profit entity who meet the description in subparagraph (A) of this paragraph;

(ii) Based on the job categories of the employees who meet the description in subparagraph (A) of this paragraph; or

(iii) On a case-by-case basis for each employee who meets the description in subparagraph (A)
of this paragraph.

(3) The school district board of the school district within which the public charter school is located shall grant a leave of absence to any employee who chooses to work in the public charter school. The length and terms of the leave of absence shall be set by negotiated agreement or by board policy. However, the length of the leave of absence may not be less than two years unless:

(a) The charter of the public charter school is terminated or the public charter school is dissolved or closed during the leave of absence; or

(b) The employee and the school district board have mutually agreed to a different length of time.

(4) An employee of a public charter school operating within a school district who is granted a leave of absence from the school district and returns to employment with the school district shall retain seniority and benefits as an employee pursuant to the terms of the leave of absence. Notwithstanding ORS 243.650 to 243.809, a school district that was the employer of an employee of a public charter school not operating within the school district may make provisions for the return of the employee to employment with the school district.

(5)(a) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a public employer and as such shall participate in the Public Employees Retirement System.

(b) For purposes of determining the salary paid to an active member of the Public Employees Retirement System under ORS 238A.005 (17) during the period between August 29, 2003, and January 1, 2020, remuneration paid to a member in return for services to a public charter school is deemed includable in the member’s taxable income under Oregon law during a period of continuous employment with any public charter school if:

(A) The member was hired in a qualifying position by any public charter school on or after August 29, 2003;

(B) The member was informed in writing by the public charter school during the period of continuous employment that the member was eligible to participate in the Public Employees Retirement System and the public charter school made contributions to the system on the member’s behalf;

(C) The remuneration was, or would have been if the member were an Oregon resident, includable in the member’s taxable income under Oregon law during the period of continuous employment; and

(D) The member resided and performed services in the United States during the period of continuous employment.

(c) As used in this subsection, “continuous employment” means employment with a public charter school that is not interrupted by a period of more than 30 consecutive calendar days.

(6) For teacher licensing, employment experience in public charter schools shall be considered equivalent to experience in public schools.

(7)(a) Any person employed as an administrator in a public charter school shall be licensed or registered to administer by the Teacher Standards and Practices Commission.

(b) Any person employed as a teacher in a public charter school shall be licensed or registered to teach by the commission.

(c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by the commission pursuant to ORS 342.125.

(8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district for purposes of ORS 243.650 to 243.809. An employee of a public charter school may be a member
of a labor organization or organize with other employees to bargain collectively. Bargaining units at the public charter school may be separate from other bargaining units of the sponsor or of the school district in which the public charter school is located. Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district in which the public charter school is located.

(9) An entity described in ORS 338.005 [(4)] (5) may not waive the right to sponsor a public charter school in a collective bargaining agreement.

SECTION 12. ORS 338.155 is amended to read:

ORS 338.155. (1)(a) Students of a public charter school shall be considered to be residents of the school district in which the public charter school is located for purposes of distribution of the State School Fund.

(b) All amounts to be distributed from the State School Fund for public charter schools shall first be distributed to the school district in which the public charter school is located.

(c) For the purpose of determining the amounts to be distributed to a school district from the State School Fund for a public charter school, the district extended ADMw described in ORS 327.013 shall be calculated:

(A) Except as provided by subparagraph (B) or (C) of this paragraph, as though the students enrolled at a public charter school are students enrolled at the public schools of the school district in which the public charter school is located.

(B) By not including any portion of the ADM of the public charter school for the previous school year if the public charter school ceased to operate because of dissolution or closure or because of termination or nonrenewal of a charter.

(C) By calculating the current school year's ADMw separately for a virtual public charter school and for the school district if the school district, without consideration of the ADM of the virtual public charter school, had a decrease in ADM compared to the previous school year.

(2) A school district shall contractually establish, with any public charter school that is sponsored by the board of the school district, payment for provision of educational services to the public charter school's students. The payment shall equal an amount per weighted average daily membership (ADMw) of the public charter school that is at least equal to:

(a) Eighty percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and

(b) Ninety-five percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

(3) A school district shall contractually establish, with any public charter school that is sponsored by a post-secondary institution of education or the State Board of Education and that is within the boundaries of the school district, payment for provision of educational services to the public charter school's students. The payment shall equal an amount per weighted average daily membership (ADMw) of the public charter school that is at least equal to:

(a) Ninety percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and

(b) Ninety-five percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

(4) The estimated amount of each school district’s General Purpose Grant per ADMw shall be
determined each year by the Department of Education and made available to all school districts.

(5) The school district in which the public charter school is located shall transfer an amount per weighted average daily membership (ADMw) of the public charter school that is equal to 50 percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 that is not paid to the public charter school through a contract created pursuant to subsection (3) of this section to the post-secondary institution of education or the Department of Education.

(6) The department may use any moneys received under this section for activities related to public charter schools.

(7) A school district and a public charter school may negotiate to establish a payment for the provision of educational services to the public charter school’s students that is more than the minimum amounts specified in subsection (2) or (3) of this section.

(8) A school district shall send payment to a public charter school based on a contract negotiated under this section within 10 days after receiving payments from the State School Fund pursuant to ORS 327.095.

(9)(a) A public charter school may apply for any grant that is available to school districts or nonchartered public schools from the Department of Education. The department shall consider the application of the public charter school in the same manner as an application from a school district or nonchartered public school.

(b) The department shall award any grant that is available to school districts based solely on the weighted average daily membership (ADMw) of the school district directly to the public charter school. This paragraph does not apply to any grant from the State School Fund.

SECTION 13. ORS 338.165 is amended to read:

338.165. (1)(a) The school district in which a public charter school is located shall identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services.

(b) The school district in which a public charter school is located:

(A) Shall receive funding from the State School Fund as provided by this section for students who are eligible for special education and related services and who are enrolled in the public charter school; and

(B) Is eligible to receive high cost disabilities grants as provided by ORS 327.348 for students who are enrolled in the public charter school.

(c) Students who are eligible for special education and related services shall be considered students of the school district in which the public charter school is located for purposes of data collection and reporting.

(2) If a student is enrolled in a public charter school and is eligible for special education and related services, an additional amount shall be added to the ADM of the public charter school as described in ORS 327.013 (1)(c)(A)(i). The payment per ADMw in the public charter school that is attributable to the student who is eligible for special education and related services shall equal an amount that is at least equal to:

(a) 40 percent of the amount of the General Purpose Grant per ADMw for the school district in which the public charter school is located, as calculated under ORS 327.013, for students who are enrolled in kindergarten through grade eight; and

(b) 47.5 percent of the amount of the General Purpose Grant per ADMw for the school district in which the public charter school is located, as calculated under ORS 327.013, for students who are
enrolled in grades 9 through 12.

(3) If a post-secondary institution of education or the State Board of Education is the sponsor of a public charter school, the school district in which the public charter school is located, for each ADMw that is attributable to a student enrolled in a public charter school who is eligible for special education and related services, shall transfer five percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 to the State Board of Education.

(4) Notwithstanding subsection (2) of this section, a school district and a public charter school may negotiate on a case-by-case basis for an alternative distribution of funds other than the distribution prescribed by subsection (2) of this section.

(5) Payments under this section must be made within 10 days after a school district receives payment from the State School Fund pursuant to ORS 327.095.

SECTION 14. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.