

Senate Bill 760

Sponsored by Senator FINDLEY, Representative OWENS; Senator WEBER

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 restriction on distribution of Student Investment Account moneys to virtual public charter schools.

Removes limitation on percentage of students in school district who may enroll in virtual public charter school not sponsored by school district without first receiving approval from school district.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to virtual public charter schools; creating new provisions; amending ORS 327.185, 327.195,
3 338.025 and 338.125; and declaring an emergency.

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

5 **SECTION 1.** ORS 327.185 is amended to read:

6 327.185. (1) As used in this section, "eligible applicant" means any of the following entities:

7 (a) Common school districts and union high school districts.

8 (b) The Youth Corrections Education Program or the Juvenile Detention Education Program.

9 (c) Public charter schools [*that are not virtual public charter schools, as defined in ORS 338.005,*
10 *and*] that have a student population of which:

11 (A) At least 35 percent of the student population is composed of students from the following
12 student groups:

13 (i) Economically disadvantaged, as described in ORS 327.180 (2)(b)(A);

14 (ii) Racial or ethnic groups that have historically experienced academic disparities, as described
15 in ORS 327.180 (2)(b)(B); or

16 (iii) Students with disabilities, as described in ORS 327.180 (2)(b)(C); and

17 (B) The percentage of the students from student groups identified under subparagraph (A) of this
18 paragraph is greater than:

19 (i) The percentage of all students in the school district who are economically disadvantaged, if
20 eligibility is determined based on the percentage of students who are economically disadvantaged;

21 (ii) The percentage of all students in the school district who are from racial or ethnic groups
22 that have historically experienced academic disparities, if eligibility is determined based on the
23 percentage of students who are from those racial or ethnic groups; or

24 (iii) The percentage of all students in the school district who are disabled, if eligibility is de-
25 termined based on the percentage of students who are disabled.

26 (2)(a) Eligible applicants may apply for a grant from the Student Investment Account to receive
27 a distribution under ORS 327.190.

28 (b) Notwithstanding ORS 338.155 (9), a public charter school that is not an eligible applicant
29 may not apply for a grant under this section.

30 (3) Prior to preparing a grant application, an eligible applicant must:

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 (a) If the eligible applicant is a school district, determine whether the school district will allow
2 public charter schools sponsored by, or located within, the school district to participate in the grant
3 application and the grant agreement.

4 (b) If the eligible applicant is a public charter school, determine whether the public charter
5 school intends to apply for a grant and provide notice of that intent to the school district in which
6 the public charter school is located and to the Department of Education.

7 (4)(a) If an eligible applicant is a school district and decides to include public charter schools
8 in the grant application and grant agreement, the school district must provide all public charter
9 schools sponsored by, or located within, the school district the opportunity to participate in the
10 grant application and grant agreement.

11 (b)(A) A public charter school is not required to participate in the grant application and grant
12 agreement of a school district.

13 (B) If a public charter school does not participate in a grant application and grant agreement
14 under this subsection:

15 (i) The ADMw of the public charter school may not be used in the calculation of the school
16 district ADMw for grants distributed under ORS 327.195; and

17 (ii) The public charter school is not entitled to any grant moneys distributed under ORS 327.195.

18 (C) If a public charter school participates in a grant application and grant agreement under this
19 subsection:

20 (i) The public charter school and school district shall enter into an agreement for the distrib-
21 ution of moneys or the provision of services, including any accountability measures required of the
22 public charter school by the school district;

23 (ii) The ADMw of the public charter school shall be used in the calculation of the school district
24 ADMw for grants distributed under ORS 327.195; and

25 (iii) The public charter school is entitled to any grant moneys or services provided for in the
26 agreement entered into under this subparagraph.

27 (5)(a) For the purpose of preparing a grant application, an eligible applicant must determine:

28 (A) Which of the allowed uses identified in ORS 327.180 (3) the eligible applicant will fund with
29 grant moneys; and

30 (B) Which of the eligible uses identified under subparagraph (A) of this paragraph the eligible
31 applicant will designate to meeting student mental and behavioral health needs.

32 (b) An eligible applicant shall make the determinations required under paragraph (a) of this
33 subsection by:

34 (A) Engaging in strategic planning; and

35 (B) Considering the recommendations of the Quality Education Commission established under
36 ORS 327.500.

37 (6)(a) The strategic planning required under subsection (5) of this section must include:

38 (A) A completed needs assessment, as described in ORS 329.095;

39 (B) An analysis of the potential academic impact, both for the students of the eligible applicant
40 and for student groups identified in ORS 327.180 (2)(b), from the allowed uses that would be funded
41 by grant moneys; and

42 (C) The creation of budgets for the allowed uses that would be funded by grant moneys.

43 (b) The strategic planning required under subsection (5) of this section must take into consid-
44 eration:

45 (A) Input from the community of the eligible applicant, including school employees, students

1 from student groups identified in ORS 327.180 (2)(b) and parents of those students; and

2 (B) Data collected by the eligible applicant to enable the eligible applicant to make equity-based
3 decisions.

4 (7) Based on the strategic planning described in subsection (6) of this section, the eligible ap-
5 plicant shall develop a four-year plan for the use of grant moneys. The plan must be updated every
6 two years and must:

7 (a) Identify which allowed uses identified in ORS 327.180 (3) will be funded with grant moneys
8 and which of those uses will be designated to meet student mental and behavioral health needs.

9 (b) Describe how the allowed uses identified under paragraph (a) of this subsection will be used
10 to:

11 (A) Meet students' mental and behavioral health needs;

12 (B) Increase academic achievement for students of the eligible applicant; and

13 (C) Reduce academic disparities for student groups identified in ORS 327.180 (2)(b) who are
14 served by the eligible applicant, and identify which of those student groups will benefit from the
15 allowed uses that are being funded with grant moneys.

16 (c) Include the budgets for the allowed uses to be funded with grant moneys.

17 (d) Be approved by the governing body of the eligible applicant at an open meeting, following:

18 (A) Provision of the plan at the main office of the eligible applicant and on the eligible
19 applicant's website;

20 (B) Oral presentation of the plan by an administrator of the eligible applicant to the governing
21 body of the eligible applicant; and

22 (C) Opportunity for the public to comment on the plan at an open meeting.

23 (e) Be a part of the local district continuous improvement plan described in ORS 329.095, if the
24 eligible applicant is a school district.

25 (8) To apply for a grant, an eligible applicant must submit an application every two years in a
26 format and according to timelines prescribed by the Department of Education. The application must
27 include:

28 (a) A completed needs assessment, as described in ORS 329.095;

29 (b) The plan developed under subsection (7) of this section; and

30 (c) Budget estimates for each of the allowed uses identified in the plan developed under sub-
31 section (7) of this section that will be funded by grant moneys.

32 **SECTION 2.** ORS 327.195 is amended to read:

33 327.195. (1)(a) Except as provided by paragraph (d) of this subsection, the amount of a grant
34 awarded from the Student Investment Account = the grant recipient's ADMw × (the total amount
35 available for distribution as grants in each biennium ÷ the total ADMw of all grant recipients).

36 (b) For purposes of this subsection and except as provided by paragraph (c) of this subsection,
37 ADMw equals:

38 (A) For school districts, the ADMw as calculated under ORS 327.013, except that the additional
39 amount allowed for students who are in poverty families, as determined under ORS 327.013
40 (1)(c)(A)(v)(I), shall be 0.5.

41 (B) For an educational program under the Youth Corrections Education Program or the Juvenile
42 Detention Education Program, as provided in ORS 327.026.

43 (c) When calculating ADMw for a school district, the Department of Education shall remove
44 from the calculation any amounts that are attributable to:

45 [(A) A virtual public charter school, as defined in ORS 338.005;]

1 [(B)] (A) A public charter school that provided notice of the public charter school's intent to
2 apply for a grant as an eligible applicant; and

3 [(C)] (B) A public charter school sponsored by, or located within, the school district that did
4 not participate in the grant application or grant agreement.

5 (d) The amount of a grant distributed under this section may be adjusted by the department to
6 ensure that:

7 (A) A grant recipient does not receive any moneys for uses that are not allowed uses under ORS
8 327.180 (3).

9 (B) A school district with an ADMw of 50 or less receives a minimum grant amount.

10 (2) The State Board of Education shall adopt any rules necessary for the distribution of grants
11 under this section, including establishing:

12 (a) The minimum grant amounts under subsection (1)(d) of this section; and

13 (b) Any percentages and timelines for installment payments and adjustments of those installment
14 payments.

15 (3) A grant recipient shall deposit the grant moneys the grant recipient receives under this
16 section into a separate account and shall apply amounts in that account as provided by the grant
17 agreement.

18 **SECTION 3.** ORS 338.125 is amended to read:

19 338.125. (1) Student enrollment in a public charter school is voluntary.

20 (2)(a) All students who reside in the school district in which the public charter school is located
21 are eligible for enrollment in the public charter school if space is available.

22 (b) Students who do not reside in the school district in which the public charter school is lo-
23 cated are eligible for enrollment in the public charter school if space is available [*and subject to*
24 *subsection (4) of this section*].

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

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

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

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

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

45 (iii) The public charter school is physically located within the attendance boundaries of the

1 closed nonchartered public school; and

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

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

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

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

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

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

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

16 (i) Are from economically disadvantaged families;

17 (ii) Are identified as having special educational needs;

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

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

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

21 (E) If the public charter school is a party to a cooperative agreement described in ORS 338.080,
22 reside in the school district that is the sponsor of the public charter school or in a school district
23 that is a party to the cooperative agreement.

24 ~~[(4)(a)]~~ (4) A student who wishes to enroll in a virtual public charter school does not need the
25 approval of the school district where the student is a resident before the student enrolls in the
26 virtual public charter school. If a student wishes to enroll in a virtual public charter school, the
27 parent, legal guardian or person in parental relationship with the student must provide the following
28 notices to the school district where the student is a resident:

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

30 [(B)] (b) Enrollment of the student in a virtual public charter school.

31 ~~[(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three
32 percent of the students who reside in a school district are enrolled in virtual public charter schools that
33 are not sponsored by the school district, a student who is a resident of the school district must receive
34 approval from the school district before enrolling in a virtual public charter school. A school district
35 is not required to give approval if more than three percent of the students who reside in the school
36 district are enrolled in virtual public charter schools that are not sponsored by the school district.]~~

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

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

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

43 ~~[(C) Students who reside in the school district, regardless of whether the students are considered
44 residents of different school districts as provided by ORS 339.133 (5), must receive approval from the
45 school district before enrolling in a virtual public charter school if the limit described in subparagraph~~

1 (A) of this paragraph has been met.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 **SECTION 4.** ORS 338.025 is amended to read:

45 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation

1 of this chapter. The rules shall follow the intent of this chapter.

2 (2) Upon application by a public charter school, the State Board of Education may grant a
3 waiver of any provision of this chapter if the waiver promotes the development of programs by
4 providers, enhances the equitable access by underserved families to the public education of their
5 choice, extends the equitable access to public support by all students or permits high quality pro-
6 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
7 chapter or any provision under ORS 338.115 (1)(a) to (aa), 338.120, [338.125 (4),] 338.135 (2)(b) or
8 339.122.

9 **SECTION 5. (1) The amendments to ORS 338.025 and 338.125 by sections 3 and 4 of this**
10 **2023 Act become operative on July 1, 2023.**

11 (2) The amendments to ORS 338.125 by section 3 of this 2023 Act first apply to the
12 2023-2024 school year.

13 (3) Notwithstanding the operative date specified in subsection (1) of this section, a stu-
14 dent is not required to receive approval from the student’s resident school district before
15 enrolling in a virtual public charter school that is not sponsored by the student’s resident
16 school district before the operative date specified in subsection (1) of this section if the en-
17 rollment is for the 2023-2024 school year or any other subsequent school year.

18 **SECTION 6. This 2023 Act being necessary for the immediate preservation of the public**
19 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
20 **on its passage.**

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