

Senate Bill 1066

Sponsored by Senator FREDERICK; Representative NERON

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**.

Establishes Task Force on For-Profit Providers of Educational Services in Virtual Public Charter Schools.

Prohibits school districts and education service districts from using sole-source procurement method for entering into contract for provision of online educational services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to the provision of online educational services; creating new provisions; amending ORS 332.075 and 334.125; and declaring an emergency.

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

SECTION 1. (1) **As used in this section:**

(a) **"For-profit virtual public charter school"** means a virtual public charter school that provides educational services to the students of the school through a for-profit provider.

(b) **"Virtual public charter school"** has the meaning given that term in ORS 338.005.

(2) **The Task Force on For-Profit Providers of Educational Services in Virtual Public Charter Schools is established.**

(3) **The task force consists of 11 members appointed as follows:**

(a) **The President of the Senate shall appoint one member from among members of the Senate.**

(b) **The Speaker of the House of Representatives shall appoint one member from among members of the House of Representatives.**

(c) **The President of the Senate and the Speaker of the House of Representatives shall jointly appoint the following five members:**

(A) **Based on the joint recommendation of the chairpersons of the interim or session committees of the Legislative Assembly related to education, one member who is a faculty member at an institution of post-secondary education and who has expertise in studying the educational and fiscal impacts of online learning.**

(B) **Based on the recommendation of an association that primarily represents licensed educators, one member who is a representative of that association.**

(C) **Based on the recommendation of an association that primarily represents classified educators and educator staff, one member who is a representative of that association.**

(D) **Based on the recommendation of an association that primarily represents school boards, one member who is a representative of that association.**

(E) **Based on the recommendation of a coalition that primarily represents school administrators, one member who is a representative of that coalition.**

(d) **The Deputy Superintendent of Public Instruction shall appoint the following three**

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 **members:**

2 (A) One member who is a representative of a school district that has a district-operated
3 online school;

4 (B) One member who is a representative of a for-profit provider of educational services
5 for a virtual public charter school; and

6 (C) One member who is a representative of a virtual public charter school that does not
7 provide educational services through a for-profit provider.

8 (e) The Attorney General shall appoint one member who is an expert in student data
9 privacy and data privacy laws.

10 (4) The task force shall:

11 (a) Examine whether services provided to for-profit virtual public charter school students
12 with special needs meet state expectations for equity, access, inclusiveness and quality, with
13 emphasis on services provided to students who:

14 (A) Are eligible for special education as a child with a disability, as defined in ORS
15 343.035, including whether the duty to identify, locate and evaluate children who may have
16 a disability and be in need of special education is being met;

17 (B) Qualify for English language learner programs; or

18 (C) Are in poverty families, as determined under ORS 327.103 (1)(c)(A)(v)(I).

19 (b) Identify quality standards applicable to for-profit virtual public charter schools.
20 Standards shall be identified by working in conjunction with other efforts of the Department
21 of Education related to remote or online learning.

22 (c) Identify ways to strengthen the accountability of for-profit virtual public charter
23 schools in relation to compliance with relevant state laws, education quality standards, cur-
24 riculum and instruction requirements, and data collection standards for graduation rates and
25 other metrics of student achievement.

26 (d) Determine the true costs of providing online educational services by a for-profit vir-
27 tual public charter school on a per-student basis, how those costs compare to the amounts
28 allowed under ORS 338.155 and whether legal requirements pertaining to profit disclosures
29 are sufficiently transparent.

30 (e) Determine whether school districts or the State Board of Education should have
31 regulatory authority over for-profit virtual public charter schools or whether there is a
32 conflict of interest and a different regulatory authority would be more appropriate to ensure
33 compliance.

34 (f) Review the findings of the Secretary of State's audit report 2017-30, "Stronger Ac-
35 countability, Oversight, and Support Would Improve Results for Academically At-Risk Stu-
36 dents in Alternative and Online Education" and audit report 2022-16, "K-12
37 Education-Systemic Risk Report," to identify recommended improvements to the provision
38 and regulation of for-profit virtual public charter schools.

39 (g) Consider the applicability of the Attorney General's 2019 opinion, Op 8296, regarding
40 public entities' delegation of essential government functions to private entities as it relates
41 to virtual public charter schools' use of private providers of educational services, and what
42 may be required to ensure meaningful oversight and safeguards.

43 (h) Determine whether appropriate safeguards are in place to discourage fraudulent
44 practices involving for-profit virtual public charter schools, as those practices relate to at-
45 tendance data, residency requirements and teacher qualifications.

1 (i) Examine research on the use of algorithm-based programming and its impact on
2 students' data privacy, learning and equity.

3 (5) For the purpose of subsection (4) of this section, the task force may examine research
4 from unbiased academic institutions, consult with interested parties and consult with experts
5 not affiliated with companies contracting with public charter schools, education service dis-
6 tricts or the State Board of Education.

7 (6) A majority of the voting members of the task force constitutes a quorum for the
8 transaction of business.

9 (7) Official action by the task force requires the approval of a majority of the voting
10 members of the task force.

11 (8) The task force shall elect one of its members to serve as chairperson and one of its
12 members to serve as vice chairperson.

13 (9) If there is a vacancy for any cause, the appointing authority shall make an appoint-
14 ment to become immediately effective.

15 (10)(a) Except as provided by paragraph (b) of this subsection, the task force shall meet
16 at times and places specified by the call of the chairperson or of a majority of the voting
17 members of the task force.

18 (b) The task force shall have its first meeting on or before September 30, 2023, and shall
19 meet at least 10 times before August 31, 2024.

20 (11) The task force may adopt rules necessary for the operation of the task force.

21 (12) No later than August 31, 2024, the task force shall submit a report in the manner
22 provided by ORS 192.245, and may include recommendations for legislation, to:

23 (a) The Joint Interim Committee on Ways and Means;

24 (b) The interim committees of the Legislative Assembly related to education; and

25 (c) The interim committees of the Legislative Assembly related to revenue.

26 (13) The Legislative Policy and Research Director shall provide staff support to the task
27 force.

28 (14) Members of the Legislative Assembly appointed to the task force are nonvoting
29 members of the task force and may act in an advisory capacity only.

30 (15) Members of the task force who are not members of the Legislative Assembly are not
31 entitled to compensation or reimbursement for expenses and serve as volunteers on the task
32 force.

33 (16) All agencies of state government, as defined in ORS 174.111, are directed to assist
34 the task force in the performance of the duties of the task force and, to the extent permitted
35 by laws relating to confidentiality, to furnish information and advice the members of the task
36 force consider necessary to perform their duties.

37 **SECTION 2.** Section 1 of this 2023 Act is repealed on December 31, 2024.

38 **SECTION 3.** ORS 332.075 is amended to read:

39 332.075. (1) Any district school board may:

40 (a) Fix the days of the year and the hours of the day when schools shall be in session.

41 (b) Adopt textbooks and other instructional materials as provided in ORS 337.120 and 337.141
42 and courses of study for the use of such schools as provided in ORS 336.035.

43 (c) Authorize the use of the schools for purposes of training students of an approved educator
44 preparation provider, as defined in ORS 342.120, and for such purposes may enter into contracts
45 with the approved educator preparation provider on such terms as may be agreed upon. Such con-

1 tracts as they relate to student teachers shall have the same effect and be subject to the same
2 regulations as a contract between a licensed teacher and a district school board.

3 (d) Develop and operate with other school districts or community college districts secondary
4 career and technical education programs for pupils of more than one district and fix by agreement
5 the duration of the district's obligation to continue such activity, subject to the availability of funds
6 therefor.

7 (e) Authorize the school district to be a member of and pay fees, if any, to any voluntary or-
8 ganization that administers interscholastic activities or that facilitates the scheduling and pro-
9 gramming of interscholastic activities only if the organization:

10 (A) Implements equity focused policies that:

11 (i) Address the use of derogatory or inappropriate names, insults, verbal assaults, profanity or
12 ridicule that occurs at an interscholastic activity, including by spectators of the interscholastic ac-
13 tivity;

14 (ii) Prohibit discrimination as defined in ORS 659.850;

15 (iii) Permit a student to wear religious clothing in accordance with the student's sincerely held
16 religious belief and consistent with any safety and health requirements; and

17 (iv) Balance the health, safety and reasonable accommodation needs of participants on an
18 activity-by-activity basis;

19 (B) Maintains a transparent complaint process that:

20 (i) Has a reporting system to allow participants of interscholastic activities or members of the
21 public to make complaints about student, coach or spectator behavior;

22 (ii) Responds to a complaint made under sub-subparagraph (i) of this subparagraph within 48
23 hours of the complaint being received; and

24 (iii) Strives to resolve a complaint received under sub-subparagraph (i) of this subparagraph
25 within 30 days of the complaint being received;

26 (C) Develops and implements a system of sanctions against schools, students, coaches and spec-
27 tators if a complaint made under subparagraph (B) of this paragraph is verified; and

28 (D) Performs an annual survey of students and their parents to understand and respond to po-
29 tential violations of equity focused policies adopted under subparagraph (A) of this paragraph or
30 violations of ORS 659.850.

31 (f) Accept money or property donated for the use or benefit of the school district and, consistent
32 with the laws of this state, use such money or property for the purpose for which it was donated.

33 (g) Enter into an approved written agreement with the governing body of a federally recognized
34 Native American tribe in Oregon to allow the use of a mascot that represents, is associated with
35 or is significant to the Native American tribe entering into the agreement. An agreement entered
36 into under this paragraph must:

37 (A) Describe the acceptable uses of the mascot;

38 (B) Comply with rules adopted by the State Board of Education that:

39 (i) Are adopted after consultation with the federally recognized tribes in Oregon pursuant to
40 ORS 182.164 (3); and

41 (ii) Prescribe the requirements for approval; and

42 (C) Be approved by the State Board of Education, which the board must provide if the agreement
43 meets the requirements of this paragraph and the rules adopted under this paragraph.

44 (2) All contracts of the school district must be approved by the district school board before an
45 order can be drawn for payment. If a contract is made without the authority of the district school

1 board, the individual making such contract shall be personally liable.

2 (3) Notwithstanding subsection (2) of this section, a district school board may, by resolution or
3 policy, authorize its superintendent or the superintendent's designee to enter into and approve pay-
4 ment on contracts for products, materials, supplies, capital outlay, equipment and services that are
5 within appropriations made by the district school board pursuant to ORS 294.456. A district school
6 board may not authorize its superintendent or the superintendent's designee under this subsection
7 to enter into and approve payment on contracts that are collective bargaining agreements or service
8 contracts that include the provision of labor performed by employees of the school district.

9 **(4) A school district may not contract for the provision of online educational services**
10 **through a sole-source procurement method under ORS 279B.075.**

11 **SECTION 4.** ORS 334.125 is amended to read:

12 334.125. (1) The education service district is a body corporate.

13 (2) The education service district board is authorized to transact all business coming within the
14 jurisdiction of the education service district and may sue and be sued.

15 (3) The education service district board shall perform all duties required by law, including but
16 not limited to:

17 (a) Distribution of such school funds as it is empowered to apportion;

18 (b) Conduct of audits;

19 (c) Budget and tax levying duties, including the levying of taxes under ORS 280.060;

20 (d) Contracting a bonded indebtedness and levying direct ad valorem taxes on all taxable prop-
21 erty within the education service district in the manner that component school districts are au-
22 thorized to issue bonds and levy taxes under ORS 328.205 to 328.304 and other laws applicable to
23 the issuance of bonds and levying of taxes by school districts; and

24 (e) Creating a county education bond district under ORS 328.304 from a county within the dis-
25 trict.

26 (4) In addition to its duties under subsection (3) of this section, an education service district
27 board:

28 (a) May provide services required by the local service plan developed pursuant to ORS 334.175;

29 (b) May provide funds to a component school district to provide services required by the local
30 service plan in lieu of the component school district receiving services from the education service
31 district;

32 (c) Shall provide funds as specified in ORS 327.019 (9) to a school district located within the
33 territory of the education service district that has withdrawn from the education service district as
34 provided in ORS 334.015; and

35 (d) For the purpose of providing services consistent with the local service plan, may enter into
36 contracts with school districts that have withdrawn from the education service district as provided
37 in ORS 334.015 or that are located outside the territory of the education service district.

38 (5) The education service district board may employ and fix the compensation of such personnel
39 as it considers necessary for carrying out duties of the board.

40 (6) In carrying out its duties, the education service district board:

41 (a) May locate, buy, accept by gift or lease such land, buildings and facilities as may be required
42 for district purposes. Leases authorized by this section may be for a term of up to 30 years and in-
43 clude lease-purchase agreements under which the district may acquire ownership of the leased
44 property.

45 (b) May acquire personal property by a lease-purchase agreement or contract of purchase for a

1 term exceeding one year. A lease-purchase agreement is one in which the rent payable by the dis-
 2 trict is expressly agreed to have been established to reflect the savings resulting from the exemption
 3 from taxation, and the district is entitled to ownership of the property at a nominal or other price
 4 that is stated or determinable by the terms of the agreement and was not intended to reflect the true
 5 value of the property.

6 (c) May lease property or sell and convey property of the district as the board considers un-
 7 necessary to its purposes.

8 (d) May purchase relocatable structures in installment transactions in which deferred install-
 9 ments of the purchase price are payable over not more than 10 years from the date of delivery of
 10 the property to the district and are secured by a security interest in the property. The transactions
 11 may take the form of, but are not limited to, lease-purchase agreements.

12 (e) May accept money or property donated for the use or benefit of the district and use the
 13 money or property for the purpose for which it was donated.

14 (7) The education service district board may adopt rules it considers necessary to carry out the
 15 duties of the board.

16 (8) The education service district may contract with public and private entities for service de-
 17 livery, **except that an education service district may not contract for the provision of online**
 18 **educational services through a sole-source procurement method under ORS 279B.075.**

19 (9)(a) The education service district shall work cooperatively with component school districts
 20 and review periodically with component school districts the operations of component school districts
 21 and shall submit to the component school districts plans for operations that achieve economies and
 22 efficiencies through consolidation of various operations of all or some of the districts. The education
 23 service district and its component school districts shall submit an annual report on the effectiveness
 24 of the consolidation of operations to the State Board of Education.

25 (b) As used in this subsection, “operations” means services involving transportation, payroll,
 26 student records, auditing, legal services, insurance, printing, investment and other similar services.

27 **SECTION 5. The amendments to ORS 332.075 and 334.125 by sections 3 and 4 of this 2023**
 28 **Act apply to contracts entered into or renewed on or after the effective date of this 2023 Act.**

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

32