

# House Bill 3155

Sponsored by Representative EVANS

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires school districts to withhold retainage when entering into public contract to provide services required by state or federal law.

## A BILL FOR AN ACT

1  
2 Relating to services provided by school districts; creating new provisions; and amending ORS  
3 332.075.

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

5 **SECTION 1.** ORS 332.075 is amended to read:

6 332.075. (1) Any district school board may:

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

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

10 (c) Authorize the use of the schools for purposes of training students of an approved educator  
11 preparation provider, as defined in ORS 342.120, and for such purposes may enter into contracts  
12 with the approved educator preparation provider on such terms as may be agreed upon. Such con-  
13 tracts as they relate to student teachers shall have the same effect and be subject to the same  
14 regulations as a contract between a licensed teacher and a district school board.

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

19 (e) Authorize the school district to be a member of and pay fees, if any, to any voluntary or-  
20 ganization that administers interscholastic activities or that facilitates the scheduling and pro-  
21 gramming of interscholastic activities.

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

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

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

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

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

**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 (ii) Prescribe the requirements for approval; and

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

4 (2)(a) All contracts of the school district must be approved by the district school board before  
5 an order can be drawn for payment. If a contract is made without the authority of the district school  
6 board, the individual making such contract shall be personally liable.

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

15 (c)(A) **As used in this paragraph:**

16 (i) **"Public contract" has the meaning given that term in ORS 279A.010.**

17 (ii) **"Retainage" means the difference between the amount a school district must pay to**  
18 **a contractor under the terms of a public contract and the amount the school district actually**  
19 **pays, during the term of the public contract, pending a contractor's completed performance**  
20 **of the public contract.**

21 (B) **A school district that enters into a public contract to provide services required by**  
22 **state or federal law shall provide in the public contract for withholding, and shall actually**  
23 **withhold, not less than \_\_\_ percent of the contract price as retainage until the contractor**  
24 **completes performance of the public contract and the school district accepts the contractor's**  
25 **performance.**

26 (C) **A school district shall state in any solicitation documents the school district issues**  
27 **in a procurement for services required by state or federal law that the school district will**  
28 **withhold the retainage described in subparagraph (B) of this paragraph.**

29 **SECTION 2. The amendments to ORS 332.075 by section 1 of this 2019 Act apply to con-**  
30 **tracts entered into on or after the effective date of this 2019 Act.**

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