

House Bill 3132

Sponsored by Representative MCINTIRE

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**.

Provides that rules adopted by State Board of Education in relation to school district boards and school districts are advisory only.

Prohibits State Board of Education, Department of Education and Superintendent of Public Instruction from taking any adverse action against school district board or school district for failure to comply with rule adopted by State Board of Education or any other policy or standard adopted by Department of Education.

Removes authority of Superintendent of Public Instruction to withhold portions of State School Fund moneys for school district found to be nonstandard.

A BILL FOR AN ACT

1
2 Relating to school district noncompliance with state policy related to education; amending ORS
3 326.051, 326.111, 327.103, 328.205, 332.107 and 336.580.

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

5 **SECTION 1.** ORS 326.051 is amended to read:

6 326.051. Subject to ORS 417.300 and 417.305:

7 (1) In addition to such other duties as are prescribed by law and pursuant to the requirement
8 of ORS chapter 183, the State Board of Education shall:

9 (a) Establish state standards for public kindergartens and public elementary and secondary
10 schools consistent with the policies stated in ORS 326.011.

11 (b) Adopt rules for the general governance of public kindergartens and public elementary and
12 secondary schools.

13 (c) Prescribe required or minimum courses of study.

14 (d) Adopt rules for public kindergartens and public elementary and secondary schools consistent
15 with the policy stated in ORS 342.437.

16 (e) Adopt rules regarding school and interscholastic activities.

17 (f) Adopt rules that provide that no public elementary or secondary school shall discriminate in
18 determining participation in interscholastic activities. As used in this paragraph, "discrimination"
19 has the meaning given that term in ORS 659.850.

20 (g) Adopt rules that will eliminate the use and purchase of elemental mercury, mercury com-
21 pounds and mercury-added instructional materials by public elementary and secondary schools.

22 (2) The State Board of Education may:

23 (a) Consistent with the laws of this state, accept money or property not otherwise provided for
24 under paragraph (b) of this subsection, which is donated for the use or benefit of the public
25 kindergartens and public elementary and secondary schools and use such money or property for the
26 purpose for which it was donated. Until it is used, the board shall deposit any money received under
27 this paragraph in a special fund with the State Treasurer as provided in ORS 293.265 to 293.275.

28 (b) Apply for federal funds, accept and enter into any contracts or agreements on behalf of the

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 state for the receipt of funds from the federal government or its agencies and disburse or expend
 2 the federal funds as provided by ORS 327.128. This paragraph applies to federal funds to be used for:

3 (A) Educational purposes, including but not limited to any funds available for the school lunch
 4 program;

5 (B) Career and technical education programs in public elementary and secondary schools; and

6 (C) Any grants available to the state or its political subdivisions for general federal aid for
 7 public kindergartens, public elementary schools and public secondary schools and their auxiliary
 8 services, improvement of teacher preparation, teacher salaries, construction of school buildings, ad-
 9 ministration of the Department of Education and any other educational activities under the juris-
 10 diction of the State Board of Education.

11 (c) Adopt rules to administer the United States Department of Agriculture's National School
 12 Lunch Program and School Breakfast Program for public and private prekindergarten through grade
 13 12 schools and residential child care facilities.

14 **(3) Any rules adopted by the State Board of Education in relation to school district**
 15 **boards and school districts shall be advisory only. The State Board of Education, the De-**
 16 **partment of Education and the Superintendent of Public Instruction are prohibited from**
 17 **taking any adverse action against a school district board or a school district for failure to**
 18 **comply with a rule adopted by the State Board of Education or any other policy or standard**
 19 **adopted by the Department of Education.**

20 **SECTION 2.** ORS 326.111 is amended to read:

21 326.111. (1) The Department of Education is created and shall function under the direction and
 22 control of the State Board of Education with the Superintendent of Public Instruction serving as an
 23 administrative officer for public school matters.

24 (2) The Department of Education shall consist of:

25 (a) Agencies and officers that are added by law to the Department of Education; and

26 (b) The administrative organizations and staffs required for the performance of the department's
 27 functions.

28 (3) All administrative functions of the State Board of Education shall be exercised through the
 29 Department of Education, and the department shall exercise all administrative functions of the state
 30 relating to **the** supervision[, *management and control*] of schools not conferred by law on some other
 31 agency.

32 **SECTION 3.** ORS 332.107 is amended to read:

33 332.107. Each district school board shall establish rules for the government of the schools and
 34 pupils. **As determined in the discretion of the district school board, the rules shall be con-**
 35 **sistent with the rules of the State Board of Education. If a district rule is not consistent with a**
 36 **state rule, the State Board of Education, the Department of Education and the Superinten-**
 37 **dent of Public Instruction are prohibited from taking any adverse action against the district**
 38 **school board or the school district.**

39 **SECTION 4.** ORS 327.103 is amended to read:

40 327.103. (1) All school districts are presumed to maintain a standard school district until the
 41 school district has been found to be deficient by the Superintendent of Public Instruction, pursuant
 42 to standards and rules of the State Board of Education.

43 *[(2) If any deficiencies are not corrected before the beginning of the school year next following the*
 44 *date of the finding of deficiency and if an extension has not been granted under subsection (3) of this*
 45 *section, the Superintendent of Public Instruction may withhold portions of State School Fund moneys*

1 otherwise allocated to the school district for operating expenses until such deficiencies are corrected
 2 unless the withholding would create an undue hardship, as determined pursuant to rules of the State
 3 Board of Education.]

4 [(3)(a)] **(2)(a)** Within 90 days of the finding of deficiency, a school district found not to be in
 5 compliance shall submit a plan, acceptable to the Superintendent of Public Instruction, for meeting
 6 standardization requirements. A team of Department of Education staff shall contact the school
 7 district and offer technical assistance. When an acceptable plan for meeting standardization re-
 8 quirements has been submitted, the Superintendent of Public Instruction may allow an extension of
 9 time before [withholding moneys] **considering the school district to be nonstandard**, not to exceed
 10 12 months, if the superintendent determines that such deficiencies cannot be corrected or removed
 11 before the beginning of the next school year.

12 (b) Notwithstanding paragraph (a) of this subsection, the Superintendent of Public Instruction
 13 may not grant an extension of time if a school district could correct the deficiency through merger.

14 (c) For the period of the extension of time under this subsection, the school district shall be
 15 considered a conditionally standard school district.

16 [(4)(a) Regardless of whether the Superintendent of Public Instruction has granted a school district
 17 an extension of time under subsection (3) of this section and except as provided in paragraph (b) of this
 18 subsection, a school district that fails to submit a plan for meeting standardization requirements within
 19 the time specified by the superintendent may not receive further State School Fund moneys until a plan
 20 acceptable to the superintendent is submitted.]

21 [(b) Pursuant to rules adopted by the State Board of Education, the Superintendent of Public In-
 22 struction may extend the time specified for submitting a plan if the superintendent determines that a
 23 human-created disaster or a natural disaster affects the ability of the school district to comply with the
 24 date requirement.]

25 **(3) If a school district is found to be nonstandard or conditionally standard under this**
 26 **section, the State Board of Education, the Department of Education and the Superintendent**
 27 **of Public Instruction are prohibited from taking any adverse action against the school dis-**
 28 **trict board or the school district.**

29 **SECTION 5.** ORS 328.205 is amended to read:

30 328.205. (1) Common and union high school districts may contract a bonded indebtedness for any
 31 one or more of the following purposes for the district:

32 (a) To acquire, construct, reconstruct, improve, repair, equip or furnish a school building or
 33 school buildings or additions thereto;

34 (b) To fund or refund the removal or containment of asbestos substances in school buildings and
 35 for repairs made necessary by such removal or containment;

36 (c) To acquire or to improve all property, real and personal, to be used for district purposes,
 37 including school buses;

38 (d) To fund or refund outstanding indebtedness; and

39 (e) To provide for the payment of the debt.

40 (2) However, when a common or union high school district is found under ORS 327.103 not to
 41 be a standard school or when a school district is operating a conditionally standard school under
 42 ORS 327.103 [(3)], the school district may contract a bonded indebtedness only for the purposes
 43 enumerated in subsection (1) of this section that are approved by the Superintendent of Public In-
 44 struction pursuant to rules of the State Board of Education.

45 (3) The school district may use the proceeds received from the sale of school district bonds to

1 pay for any costs incurred by the school district in authorizing, issuing, carrying or repaying the
2 bonds, including, but not limited to, attorney, consultant, paying agent, trustee or other professional
3 fees and the cost of publishing notices of bond elections, printing such bonds and advertising such
4 bonds for sale.

5 **SECTION 6.** ORS 336.580 is amended to read:

6 336.580. (1) Every child at a youth care center, as defined in ORS 420.855, is entitled to receive
7 appropriate education suited to the needs of the child in the least restrictive environment in which
8 the child can function until the child is no longer of compulsory school age or receives a high school
9 diploma or an equivalent.

10 (2)(a) Except as provided by paragraph (b) of this subsection, the school district in which the
11 youth care center is located shall develop an educational plan for the children in the youth care
12 center in consultation with the director of the center. The plan shall be approved annually by the
13 school district board.

14 (b) For children placed at a youth care center within a detention facility, as defined in ORS
15 419A.004, the children shall receive educational services through the Juvenile Detention Education
16 Program as described in ORS 326.695.

17 (3) The Superintendent of Public Instruction shall have the authority to enforce the provisions
18 of ORS 336.575 and 339.137 and this section. If a district fails to comply, the superintendent shall
19 find the district deficient and shall [*apply the penalty provided in*] **find the district nonstandard**
20 **under** ORS 327.103.

21 (4) The State Board of Education shall adopt rules to implement this section.
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