

# A-Engrossed House Bill 3953

Ordered by the House May 27  
Including House Amendments dated May 27

Sponsored by Representative SANCHEZ (at the request of Confederated Tribes of Grand Ronde)

## 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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Allows an Indian tribe to ask the State Board of Education to be the sponsor of a public charter school. (Flesch Readability Score: 63.8).

Allows an applicant for a public charter school that is a federally recognized Indian tribe in this state to directly apply to the State Board of Education for sponsorship.

## A BILL FOR AN ACT

Relating to public charter school sponsorship; amending ORS 338.035, 338.045, 338.065 and 338.075.

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

**SECTION 1.** ORS 338.035 is amended to read:

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;

(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~~].~~; **or**

**(C) A school for which the applicant is a federally recognized Indian tribe in this state.**

(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 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 school district board of the school district within which a public charter school is located may act in an advisory capacity on the public charter school governing body.

(4)(a) An applicant seeking to establish a public charter school shall submit a proposal *[pursuant*

**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.

to ORS 338.045] to:

(A) The school district board of the school district within which the public charter school will be located **pursuant to ORS 338.045 if the applicant:**

(i) **Is not a federally recognized Indian tribe in this state; or**

(ii) **Is a federally recognized Indian tribe in this state and chooses to submit a proposal to a school district board; or**

(B) **The State Board of Education pursuant to ORS 338.075 if the applicant:**

(i) **Is a federally recognized Indian tribe in this state; and**

(ii) **Chooses to not submit a proposal to a school district board.**

(b) **For a proposal submitted as provided by paragraph (a)(A) of this subsection, the proposal must be submitted** by the date identified by the school district board. The school district board 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 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 prior to submitting a proposal, and the school district board may require an applicant to submit a letter of intent within a reasonable period of time prior to submitting a proposal.

(5) An applicant seeking to establish a public charter school **as provided by subsection (4)(a)(A) of this section** shall provide to the State Board of Education a copy of any proposal submitted to a school district board under ORS 338.045 and a copy of any subsequent approval by the school district board.

(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 composed 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 considered 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) 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) 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) may not approve a proposal for a public charter school that is affiliated with a nonpublic sectarian school or a religious institution.

**SECTION 2.** ORS 338.045 is amended to read:

338.045. (1) An applicant **described in ORS 338.035 (4)(a)(A)** seeking to establish a public charter school shall submit a written proposal to a school district board.

(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;

- 1 (c) A description of the philosophy and mission of the public charter school;
- 2 (d) A description of the curriculum of the public charter school;
- 3 (e) A description of the expected results of the curriculum and the verified methods of measuring
- 4 and reporting objective results that will show the growth of knowledge of students attending the
- 5 public charter school and allow comparisons with public schools;
- 6 (f) The governance structure of the public charter school;
- 7 (g) The projected enrollment to be maintained and the ages or grades to be served;
- 8 (h) The target population of students the public charter school will be designed to serve;
- 9 (i) A description of any distinctive learning or teaching techniques to be used in the public
- 10 charter school;
- 11 (j) The legal address, facilities and physical location of the public charter school, if known;
- 12 (k) A description of admission policies and application procedures;
- 13 (L) The statutes and rules that shall apply to the public charter school;
- 14 (m) The proposed budget and financial plan for the public charter school and evidence that the
- 15 proposed budget and financial plan for the public charter school are financially sound;
- 16 (n) A description of the financial management system for the public charter school, an explana-
- 17 tion of how the financial management system will meet the requirements of ORS 338.095 (1) and a
- 18 plan for having the financial management system in place at the time the school begins operating;
- 19 (o) The standards for behavior and the procedures for the discipline, suspension or expulsion of
- 20 students;
- 21 (p) The proposed school calendar for the public charter school, including the length of the
- 22 school day and school year;
- 23 (q) A description of the proposed staff members and required qualifications of teachers at the
- 24 public charter school;
- 25 (r) The date upon which the public charter school would begin operating;
- 26 (s) The arrangements for any necessary special education and related services provided pursuant
- 27 to ORS 338.165 for children with disabilities who may attend the public charter school;
- 28 (t) Information on the manner in which community groups may be involved in the planning and
- 29 development process of the public charter school;
- 30 (u) The term of the charter;
- 31 (v) The plan for performance bonding or insuring the public charter school, including buildings
- 32 and liabilities;
- 33 (w) A proposed plan for the placement of public charter school teachers, other school employees
- 34 and students of the public charter school upon termination or nonrenewal of a charter;
- 35 (x) The manner in which the program review and fiscal audit will be conducted; and
- 36 (y) In the case of an existing public school being converted to charter status:
- 37 (A) The alternative arrangements for students who choose not to attend the public charter
- 38 school and for teachers and other school employees who choose not to participate in the public
- 39 charter school; and
- 40 (B) The relationship that will exist between the public charter school and its employees, in-
- 41 cluding evidence that the terms and conditions of employment have been addressed with affected
- 42 employees and their recognized representative, if any.
- 43 (3) In addition to the requirements of subsection (2) of this section:
- 44 (a) The school district board may require any additional information the board considers rele-
- 45 vant 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 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 3.** ORS 338.065 is amended to read:

338.065. (1)(a) Upon approval of a proposal by a school district board under ORS 338.055, the school district board shall become the sponsor of the public charter school.

(b) Pursuant to ORS 338.075 (2), [or] (3) **or** (4), 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 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 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) 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) 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) of this subsection and any remedial measures sug-

gested 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 4.** 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), the applicant may request that the State Board of Education review the decision of the school district board.

(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 de-

termine 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

(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.

**(4)(a) An applicant for a public charter school that is a federally recognized Indian tribe in this state:**

**(A) Is not required to submit a written proposal to a school district board under ORS 338.045; and**

**(B) May submit a written proposal to the State Board of Education.**

**(b) An applicant for a public charter school that is a federally recognized Indian tribe in this state may submit a proposal as provided by this subsection only if:**

**(A) The federally recognized Indian tribe does not already operate a public charter school sponsored by the board as provided by this subsection;**

**(B) The proposed public charter school will be located on the reservation of the federally recognized Indian tribe or, if the federally recognized Indian tribe does not have a reservation, within a school district that enrolls students who are members of the federally recognized Indian tribe; and**

**(C) The federally recognized Indian tribe provides notice, as prescribed by the board by rule, of the intent to submit a proposal under this subsection to:**

**(i) For a public charter school that will be located on the reservation of the federally recognized Indian tribe, the school district that serves the students of the reservation; or**

**(ii) For a public charter school that will be located within a school district that enrolls members of the federally recognized Indian tribe, the school district where the proposed public charter school will be located.**

**(c) The board shall prescribe by rule the requirements of a proposal submitted pursuant to this subsection. The requirements must incorporate any applicable requirements for a proposal submitted pursuant to ORS 338.045. At the request of an applicant, the Department of Education may provide technical assistance in developing the proposal for the operation of the public charter school.**

**(d) The board shall prescribe by rule the process for reviewing a proposal submitted pursuant to this subsection, including timelines for the review. The board must provide an applicant with a reasonable opportunity to complete a proposal if the board determines that a submitted proposal is not complete.**

**(e) The board shall evaluate a proposal in good faith, using the applicable criteria de-**

1    **scribed in ORS 338.055 (3).**

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