

Enrolled House Bill 3184

Sponsored by COMMITTEE ON EDUCATION

CHAPTER

AN ACT

Relating to education service districts; creating new provisions; amending ORS 326.712, 327.019, 334.125, 334.175, 334.185, 334.240 and 343.221; and declaring an emergency.

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

SECTION 1. ORS 327.019 is amended to read:

327.019. (1) As used in this section:

(a) "Education service district extended ADMw" means the sum of the extended ADMw of the component school districts of the education service district as computed under ORS 327.013.

(b) "Local revenues of an education service district" means the total of the following:

(A) The amount of revenue offset against local property taxes as determined by the Department of Revenue under ORS 311.175 (3)(a)(A);

(B) The amount of property taxes actually received by the district including penalties and interest on taxes;

(C) The amount of revenue received by the district from state-managed forestlands under ORS 530.115 (1)(b) and (c); and

(D) Any positive amount obtained by subtracting the operating property taxes actually imposed by the district based on the rate certified pursuant to ORS 310.060 from the amount that would have been imposed by the district if the district had certified the maximum rate of operating property taxes allowed by law.

(2) Each fiscal year, the Superintendent of Public Instruction shall calculate a State School Fund grant for each education service district as provided in this section.

(3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or allocated to the State School Fund and available for distribution to school districts, education service districts and programs + total amount of local revenues of all school districts, computed as provided in ORS 327.013, + total amount of local revenues of all education service districts. The superintendent may not include in the calculation under this paragraph amounts recovered by the Department of Education from the State School Fund under ORS 343.243.

(b) The superintendent shall multiply the amount calculated under paragraph (a) of this subsection by [95] **95.25** percent.

(c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to 327.133 the total amount calculated under paragraph (b) of this subsection as school district general purpose grants, facility grants and transportation grants to school districts.

(d) Based on the funding percentage calculated under paragraph (c) of this subsection, the superintendent shall calculate the general purpose grant, facility grant and transportation grant amounts for each school district.

(4) The general services grant for an education service district shall equal the higher of:

(a) Total amount calculated under subsection (3)(d) of this section for the component school districts of the education service district \times [5.263 percent] (4.75 \div 95.25); or

(b) [\$1 million] **\$950,000**.

(5) Subject to subsection (6) of this section, the State School Fund grant for an education service district = general services grant – local revenues of the education service district.

(6)(a) After completing the calculations under subsections (2) to (5) of this section, the Superintendent of Public Instruction shall apportion from the State School Fund to each education service district an amount = (funding percentage \times general services grant) – local revenues of the education service district.

(b) The funding percentage used in paragraph (a) of this subsection shall be calculated by the superintendent to distribute as nearly as practicable the total amount available for distribution to education service districts from the State School Fund for each fiscal year.

(7) Notwithstanding subsections (5) and (6) of this section, the State School Fund grant of an education service district may not be less than zero.

(8) An education service district shall distribute to its component school districts any amount of local revenues of the education service district that is greater than the general services grant. The amount that each component school district receives under this subsection shall be prorated based on the district extended ADMw of each school district.

SECTION 2. The amendments to ORS 327.019 by section 1 of this 2005 Act apply to State School Fund distributions commencing with the 2006-2007 distribution.

SECTION 2a. The amendments to ORS 327.019 by section 1 of this 2005 Act become operative on July 1, 2006.

SECTION 3. ORS 334.175 is amended to read:

334.175. [(1) *The education service district or a combination of education service districts or a school district or other public or private entity under contract with an education service district or districts may provide services and facilities, including but not limited to central purchasing, library, curriculum material, special teachers and special programs including but not limited to teachers and programs under ORS chapter 343 and any other relevant services to all school districts which are a part of the education service district or districts. If the education service district owns a planetarium, the district may promote public events and may sell tickets for public events at the planetarium.*]

[(2) *The extent and nature of such facilities and services must be:*]

(1) An education service district shall provide regionalized core services to component school districts. The goals of these services are to:

(a) Assist component school districts in meeting the requirements of state and federal law;

(b) Improve student learning;

(c) Enhance the quality of instruction provided to students;

(d) Provide professional development to component school district employees;

(e) Enable component school districts and the students who attend schools in those districts to have equitable access to resources; and

(f) Maximize operational and fiscal efficiencies for component school districts.

(2) The services provided by an education service district shall be provided according to a local service plan developed by the education service district and component school districts. The education service district and component school districts shall develop the local service plan to meet the goals specified in subsection (1) of this section. The local service plan must include services in at least the following areas:

(a) Programs for children with special needs, including but not limited to special education services, services for at-risk students and professional development for employees who provide those services.

(b) Technology support for component school districts and the individual technology plans of those districts, including but not limited to technology infrastructure services, data services, instructional technology services, distance learning and professional development for employees who provide those services.

(c) School improvement services for component school districts, including but not limited to services designed to support component school districts in meeting the requirements of state and federal law, services designed to allow the education service district to participate in and facilitate a review of the state and federal standards related to the provision of a quality education by component school districts, services designed to support and facilitate continuous school improvement planning, services designed to address schoolwide behavior and climate issues and professional technical education and professional development for employees who provide those services.

(d) Administrative and support services for component school districts, including but not limited to services designed to consolidate component school district business functions, liaison services between the Department of Education and component school districts and registration of children being taught by private teachers, parents or legal guardians pursuant to ORS 339.035.

(e) Other services that an education service district is required to provide by state or federal law, including but not limited to services required under ORS 339.005 to 339.090.

(3) In addition to the services specified in subsection (2) of this section, a local service plan may include other services that are designed to meet regional needs.

(4) A local service plan shall also contain annual performance measures for the education service district.

(5) A local service plan must:

(a) Be adopted by the board of the education service district.

[(a)] (b) *[agreed upon]* After being adopted by the board of the education service district, be approved on or before March 1 by resolution of two-thirds of the component school districts *[which]* that are a part of the education service district *[or districts]* and *[which]* that have at least a majority of the pupils included in the average daily membership of the education service district *[or districts]*, as determined by the reports of such school districts for the preceding year, enrolled in the schools of the **school** districts.]; *and]*

[(b)] Within the authority of the interested districts.]

[(3)] Notwithstanding subsection (2) of this section, the education service district or a school district or other public or private entity under contract with an education service district may provide facilities and services of the type specified in subsection (1) of this section by agreement and on a reimbursable basis to any school district or combination thereof within the education service district.]

[(4)] Subject to subsections (1) and (2) of this section and ORS 334.185, the education service district may establish or participate in all programs under ORS chapter 343.]

(6) Notwithstanding the process for approval and adoption required by subsection (5) of this section, if the component school districts approve an amendment to a local service plan pursuant to subsection (5)(b) of this section, the board of an education service district may amend a local service plan that has been previously adopted by the board and approved by the component school districts. An amendment to a local service plan may be done at any time.

(7) An education service district may provide the services required by the local service plan directly through the staff of the district. In addition, an education service district may provide services required by the local service plan through the operation of a public school, a public charter school pursuant to ORS chapter 338, an alternative school or a preschool.

(8) An education service district may provide the services required by the local service plan in cooperation with another education service district or with a school district. In addition, an education service district may contract with a public or private entity for the provision of services.

SECTION 4. ORS 326.712 is amended to read:

326.712. The Superintendent of Public Instruction may contract with an education service district or a school district to provide teachers, counselors or other personnel for the Youth Corrections Education Program and the Juvenile Detention Education Program. However, the programs may not be considered a component district and the students enrolled in the programs may not be counted in determining the number of pupils in average daily membership for purposes of ORS 334.175 [(2)(a)] **(5)**.

SECTION 4a. ORS 334.125 is amended to read:

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

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

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

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

(b) Conduct of audits;

(c) Duties as district boundary board;

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

(e) Contracting a bonded indebtedness and levying direct ad valorem taxes on all taxable property within the education service district in the manner that component school districts are authorized to issue bonds and levy taxes under ORS 328.205 to 328.304 and other laws applicable to the issuance of bonds and levying of taxes by school districts; and

(f) Creating a county education bond district under ORS 328.304 from a county within the district.

(4) In addition to its duties under subsection (3) of this section [*and duties arising under ORS 334.175, with the approval of the component school districts through the resolution process described in ORS 334.175, the board may*], **an education service district board may provide services required by the local service plan developed pursuant to ORS 334.175 and may**

[(a) Plan for the provision and delivery of education, including curriculum improvement and special education programs;]

[(b) Provide staff development;]

[(c) Conduct assessment, evaluation and research;]

[(d) Plan and provide for new learning environments;]

[(e) Plan and provide for educational communication and distribution services, including telecommunications systems;]

[(f) Collaborate in jointly planning for the delivery of health care, employment training and social services in the region; and]

[(g)] provide funds to component school districts to provide services **required by the local plan** in lieu of those school districts receiving services from the education service district.

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

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

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

(b) May acquire personal property by a lease-purchase agreement or contract of purchase for a term exceeding one year. A lease-purchase agreement is one in which the rent payable by the district is expressly agreed to have been established to reflect the savings resulting from the exemption

from taxation, and the district is entitled to ownership of the property at a nominal or other price which is stated or determinable by the terms of the agreement and was not intended to reflect the true value of the property.

(c) May lease property or sell and convey property of the district as the board considers unnecessary to its purposes.

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

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

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

(8) The education service district may contract with public and private entities for service delivery.

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

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

SECTION 5. ORS 334.240 is amended to read:

334.240. (1) The education service district board shall be subject in all respects to the Local Budget Law (ORS 294.305 to 294.565), except that in addition to other qualifications, members of the budget committee who are not members of the education service district board shall be members of component school district boards within the education service district or shall be designees of a school district board.

(2) Notwithstanding ORS 294.336 and 294.341, a majority of the members of the budget committee of an education service district must consist of members of the component school district boards or designees of a school district board. The budget committee may meet to conduct business if the education service district board is unable to fill all of the positions on the budget committee.

(3) The board of the education service district [*is authorized to*] **shall** prepare and adopt a budget for [*its own*] **the operational and administrative** expenses [*and for its operational, administrative and resolution services expenses. The board's own expenses include expenses for travel, for providing the board with professional and clerical assistance, and for such services, equipment and supplies as the board may require*] **of the education service district.** The [*board's*] budget [*may*] **shall** include amounts necessary to provide [*special*] services [*and facilities authorized by*] **required by the local service plan of the district developed under** ORS 334.175 [(1) and (2), and to support providing services and programs for children with disabilities, for the talented and gifted or for bilingual or English as a second language education as these programs are described in ORS 336.074, 336.079, 343.035, 343.397 and 343.830].

SECTION 6. ORS 343.221 is amended to read:

343.221. In order to provide special education for children with disabilities, the district school board of any school district in which there are school-age children who require special education:

(1) Shall submit an annual projected activities and cost statement to the Superintendent of Public Instruction for a program of special education for the district's children with disabilities. The proposed district program shall include provisions for providing special education and related services and be designed to meet the unique needs of all resident children with disabilities.

(2) Shall provide special education for such children consistent with the projected activities and cost statement.

(3) May, when the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, contract for special education for such children with another school district [or an education service district] if[.]

[(a)] the district school boards jointly agree to provide special education.

(4) May, when the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, contract for special education for such children with an education service district if:

[(b)] **(a) The contract is consistent with the local service plan of the education service district developed pursuant to ORS 334.175 and the school districts within the education service district approve the contract by a resolution adopted in the manner provided in ORS 334.175 [(2)].**

[(c) Any school district within the education service district contracts with the education service district in the manner provided in ORS 334.175 (3) for such special education.]

(b) The school district contracts with an education service district pursuant to ORS 334.185.

[(4)] **(5) May contract with private agencies or organizations approved by the State Board of Education for special education.**

[(5)] **(6) May use the services of public agencies, including community mental health and developmental disabilities programs, which provide diagnostic, evaluation and other related services for children.**

[(6)] **(7) May contract for the provision of related services by a person in private practice if that person is registered, certified or licensed by the State of Oregon as qualified to provide a particular related service that requires registration, certification or licensing by the state.**

SECTION 7. The amendments to ORS 326.712, 334.125, 334.175, 334.240 and 343.221 by sections 3 to 6 of this 2005 Act become operative on July 1, 2006.

SECTION 8. ORS 334.185 is amended to read:

334.185. (1) *[Facilities and services authorized under ORS 334.175 (1) may be provided to component school districts which are not a part of the education service district or districts by agreement on a reimbursable basis. However, the pupils residing in such districts shall not be included in the computation of the percentage required by ORS 334.175 (2)(a). The facilities and services may also be provided to other public or private entities by agreement or on a reimbursable basis.]* **An education service district may provide entrepreneurial services and facilities to public and private entities and to school districts that are not component school districts of the education service district if:**

(a) The services are part of the local service plan developed pursuant to ORS 334.175;

(b) The services are provided pursuant to a business plan; and

(c) The primary purpose of the services is to address a need of component school districts.

(2) An education service district must submit entrepreneurial services and facilities to component school districts for approval to ensure that component school districts receive information about the costs and benefits of providing services and facilities, including identification of the funding sources for the services and facilities and an explanation of whether any moneys received from the State School Fund or local revenues of the education service district, as defined in ORS 327.019, may be required to finance the services or facilities.

(3) Pupils residing in school districts that are not component school districts of an education service district but that receive entrepreneurial services or use facilities under this section may not be included in the computation of the percentage required by ORS 334.175 (5)(b).

[(2)] **(4) Entrepreneurial services and facilities may be provided under contract or on a reimbursable basis.** Expenditures by the education service district board for *[special]* **entrepreneurial** services and facilities provided on a reimbursable basis under this section shall be limited to the moneys received for the purpose specified and are not subject to the Local Budget

Law (ORS 294.305 to 294.565) but are subject to an annual financial report to the component school districts.

[3] (5) Budget estimates of expenditures for [special] entrepreneurial services and facilities provided under this section must show the estimates of moneys receivable and must be shown as offsetting revenue items.

SECTION 9. The amendments to ORS 334.185 by section 8 of this 2005 Act become operative on July 1, 2006.

SECTION 10. As used in sections 11 to 14 of this 2005 Act, "pilot education service district" means:

- (1) The Willamette Education Service District;
- (2) The High Desert Education Service District; and
- (3) The Northwest Regional Education Service District.

SECTION 11. (1) Notwithstanding ORS chapter 334, the board of directors of a pilot education service district shall consist of nine members as follows:

(a) Five directors shall represent zones established under ORS 334.032 and shall be elected by the boards of the component school districts;

(b) Four directors shall be appointed by the directors described in paragraph (a) of this subsection, including one at-large director and a director representing each of the following:

- (A) Public post-secondary institutions located within the pilot education service district;
- (B) Social service providers; and
- (C) The business community.

(2) Prior to April 1, 2006, the board of directors of a pilot education service district shall divide the pilot education service district into five zones as nearly equal in census population as may be practicable, measured along common school district boundary lines.

(3) The board of directors of a pilot education service district may readjust the boundaries of the zones once each year and shall readjust the boundaries of the zones immediately upon any change of the boundaries of the pilot education service district or a component school district.

(4) Prior to July 1, 2006, the boards of the component school districts within each zone shall elect a representative to serve on the board of directors of the pilot education service district. Each component school district board shall have one vote.

(5) Notwithstanding ORS 334.090, the terms of office of directors serving on the board of a pilot education service district who were not elected or appointed pursuant to this section shall terminate on June 30, 2006.

(6) Any vacancy on the board of directors of a pilot education service district that occurs before the end of the term of office of a director of a pilot education service district shall be filled following the process described in this section.

SECTION 12. (1) ORS 334.095 does not apply to a pilot education service district. However, the board of directors of a pilot education service district shall declare the office of director vacant upon the occurrence of any of the following:

- (a) When an incumbent dies or resigns;
- (b) When an incumbent is removed from office or the election or appointment thereto has been declared void by the judgment of any court;
- (c) When an incumbent ceases to be a resident of the pilot education service district;
- (d) When an incumbent ceases to be a resident of the zone from which elected; or
- (e) When an incumbent ceases to discharge the duties of office for two consecutive months unless prevented therefrom by sickness or other unavoidable cause.

(2) A director guilty of misfeasance or malfeasance in office, by the appropriate proceeding, may be removed from office by a court of competent jurisdiction.

SECTION 13. Each pilot education service district shall report to the interim legislative committees relating to education on the governance structure of the board of the pilot education service district prior to October 1, 2006, and October 1, 2008.

SECTION 14. (1) Prior to February 1, 2010, the board of directors of a pilot education service district shall divide the pilot education service district into as many zones as the board considers necessary, but not fewer than seven or more than 11. The zones shall be as nearly equal in census population as may be practicable. If possible, the board shall establish the zones so that each county within the education service district, the majority of the land area of which lies within the boundaries of the education service district, has at least one member on the board.

(2) Within 90 days after the zones required in subsection (1) of this section are established, the board shall call a special election in the education service district for the purpose of electing directors, one of whom shall be elected by the electors of each zone established under subsection (1) of this section.

(3) ORS 334.750 applies to a board of directors elected under this section.

(4) The term of office of a director who was appointed or elected under section 11 of this 2005 Act terminates on June 30, 2010.

SECTION 15. Sections 11 to 14 of this 2005 Act are repealed on June 30, 2010.

SECTION 16. (1) The Department of Education shall conduct a review of administrative and support services provided by the department, education service districts and school districts that support classroom instruction. The purpose of the review is to identify and evaluate redundant services that occur within the kindergarten through grade 12 education system. The department or districts shall explain, correct or eliminate any redundant services identified by the department.

(2) Prior to October 1, 2006, the department shall report to the interim legislative committees relating to education on the results of the review conducted under subsection (1) of this section. The report shall include recommendations on the correction or elimination of redundant services identified by the department.

SECTION 17. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by House May 16, 2005

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Repassed by House August 4, 2005

.....M.,....., 2005

Approved:

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Chief Clerk of House

.....M.,....., 2005

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Speaker of House

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Governor

Passed by Senate August 4, 2005

Filed in Office of Secretary of State:

.....M.,....., 2005

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President of Senate

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Secretary of State