

A-Engrossed
Senate Bill 765

Ordered by the Senate May 3
Including Senate Amendments dated May 3

Sponsored by COMMITTEE ON EDUCATION AND WORKFORCE

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.

[Directs State Board of Education to enter order to merge education service districts based on specified criteria. Allows labor organization that will represent portion of employees of new education service district to file petitions with Employment Relations Board.]

[Provides that new education service districts become operative on July 1, 2007.]

Directs State Board of Education to designate education service districts as regional education service agencies. Specifies duties and mission of agencies.

Requires State Superintendent of Public Instruction to present school districts with three or more models for organizational structure, including one based on current education service district structure, one based on designation of education service districts as regional education service agencies and one based on variation of those two models. Requires school districts to prioritize choices of models. Directs superintendent to make recommendations to board based on school district responses.

Directs board to adopt plan for reorganization of education service districts based on superintendent's recommendations and to enter order on or before March 31, 2006, to merge or divide existing education service districts based on plan adopted. Establishes organizational process for districts merged or divided.

Directs education service districts to develop local service plans that must be approved by component school districts. Allows education service district to provide services to entities other than component school districts *[upon approval of Department of Education]*.

Modifies duties and mission of education service districts and provisions regarding district boards and budget committees.

Declares emergency, effective July 1, 2005.

A BILL FOR AN ACT

1
2 Relating to education service districts; creating new provisions; amending ORS 243.650, 326.712,
3 334.005, 334.010, 334.020, 334.025, 334.032, 334.090, 334.095, 334.125, 334.175, 334.177, 334.185,
4 334.240, 334.370, 334.730, 334.750, 334.760 and 343.221; repealing ORS 334.022, 334.035, 334.045
5 and 334.740; and declaring an emergency.

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

7 **SECTION 1. Sections 2 to 8 of this 2005 Act are added to and made a part of ORS chapter**
8 **334.**

9 **SECTION 2. (1) The State Board of Education shall designate education service districts**
10 **as regional education service agencies. Regional education service agencies shall facilitate**
11 **the timely transfer of information, training and services between the Department of Educa-**
12 **tion and school districts. The goal of the regional education service agencies is to increase**
13 **the capacity for and the quality of administrative and direct services to students. Each re-**
14 **gional education service agency shall:**

15 (a) **Support school districts in providing high quality administrative services and pro-**
16 **grams;**

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 **(b) Support school district performance improvement;**

2 **(c) Establish, maintain and develop technology infrastructure; and**

3 **(d) Provide direct services to students, including special education and related services**
4 **and services for at-risk students.**

5 **(2) The board shall base a designation under subsection (1) of this section on whether the**
6 **education service district has or will have sufficient capacity to deliver services, whether**
7 **that capacity has been consistent and whether the education service district has demon-**
8 **strated quality in the delivery of services. Each education service district that is designated**
9 **as a regional education service agency shall at a minimum have the capacity to:**

10 **(a) Support school districts in providing high quality administrative services and pro-**
11 **grams. To demonstrate this capacity the education service district must do all of the fol-**
12 **lowing:**

13 **(A) Demonstrate knowledge of public contracting laws and best business practices.**

14 **(B) Have a sufficient number of employees to provide accounting services to school dis-**
15 **tricts and to provide oversight of school district fiscal practices.**

16 **(C) Demonstrate the ability to assess cost-effectiveness and the efficiency of school dis-**
17 **trict administrative functions.**

18 **(D) Have experience with the oversight and reporting of factors used to determine the**
19 **amount that a school district receives as a State School Fund grant.**

20 **(E) Demonstrate the ability to facilitate school district performance audits and strategic**
21 **reviews of school district operations.**

22 **(b) Support school district performance improvement. To demonstrate this capacity the**
23 **education service district must demonstrate the ability to do all of the following:**

24 **(A) Provide leadership for the improvement of the public school system.**

25 **(B) Support and facilitate school and school district improvement based on measurable**
26 **goals.**

27 **(C) Provide supplemental services as required for students not making adequate yearly**
28 **progress under federal law.**

29 **(D) Organize, synthesize and evaluate data related to student achievement.**

30 **(E) Provide training for school district implementation of the requirements of state and**
31 **federal law.**

32 **(F) Provide training for data collection and data analysis.**

33 **(G) Organize, synthesize and evaluate data related to school finance.**

34 **(c) Establish, maintain and develop technology infrastructure. To demonstrate this ca-**
35 **capacity the education service district must demonstrate the ability to do all of the following:**

36 **(A) Act as a regional hub for school districts and community colleges for the establish-**
37 **ment, maintenance and development of technology infrastructure.**

38 **(B) Perform design and engineering functions for technology system development.**

39 **(C) Facilitate cost-effective solutions with telecommunications providers and other public**
40 **and private entities providing regional and statewide services.**

41 **(D) Manage multiple methods of providing communication technologies, including video**
42 **conferencing and distance learning.**

43 **(E) Work with public post-secondary institutions to accommodate shared professional**
44 **development and to provide access to course content by students and staff.**

45 **(d) Provide direct services to students, including special education and related services**

1 and services for at-risk students. To demonstrate this capacity the education service district
2 must demonstrate all of the following:

- 3 (A) The ability to provide comprehensive oversight of contracted service providers.
- 4 (B) Knowledge of best practices for serving students with disabilities.
- 5 (C) The ability to facilitate and provide program and service evaluation.

6 **SECTION 3.** On or before March 31, 2006, the State Board of Education shall designate
7 education service districts as regional education service agencies based on the criteria
8 specified in section 2 of this 2005 Act.

9 **SECTION 4.** (1) Before March 31, 2006, the Superintendent of Public Instruction shall
10 present to school districts three or more models for the organizational structure of educa-
11 tion service districts and the relationship of school districts and the Department of Educa-
12 tion with education service districts. The models shall include:

- 13 (a) One that is the current system;
- 14 (b) One that includes the designation of education service districts as regional education
15 service agencies as required by section 2 of this 2005 Act; and
- 16 (c) One that is a variation of the models identified in paragraphs (a) and (b) of this sub-
17 section and has education service districts that have the characteristics listed in ORS
18 334.690.

19 (2) Each school district shall provide the department with a prioritized list indicating the
20 district's first, second and third choices for the organizational model to be applied to the
21 education service district within which the school district is located. A school district may
22 also provide recommendations to the department on the merger or division of education
23 service districts and the designation of an education service district as a regional education
24 service agency.

25 (3) Before March 31, 2006, the superintendent shall recommend to the State Board of
26 Education:

- 27 (a) The organizational model to apply to each education service district;
- 28 (b) The education service districts that should be merged or divided to implement the
29 recommended model;
- 30 (c) The education service districts that should be designated as regional education service
31 agencies; and
- 32 (d) The boundaries of the education service districts.

33 (4) Based on the recommendations of the superintendent, the board shall adopt a plan for
34 the reorganization of education service districts.

35 **SECTION 5.** (1) On or before March 31, 2006, the State Board of Education shall enter
36 an order to merge or divide existing education service districts based on the plan adopted
37 by the board under section 4 of this 2005 Act.

38 (2) The board shall give the education service districts formed under subsection (1) of
39 this section new names, and the affected county assessors shall give the education service
40 districts new numbers that have not been used previously.

41 (3) An order under this section shall include provisions for any outstanding bonded
42 indebtedness of former education service districts to be distributed over the entire area of
43 any education service district formed by a merger. An order under this section shall also
44 include provisions for the distribution of any assets or liabilities of education service districts
45 that are being merged or divided under this section.

1 **(4) An order under this section shall include provisions for the transfer of employees**
2 **from the former education service districts to the education service districts formed by the**
3 **order. An employee of any former education service district shall be considered an employee**
4 **of an education service district formed by the order, and the districts formed by the order**
5 **shall succeed the former districts as parties to the respective employment contracts of the**
6 **former districts.**

7 **(5) An education service district employee may not be deprived of seniority or accumu-**
8 **lated sick leave solely because the duties of the employee have been assumed or acquired by**
9 **an employee of another education service district as a result of a merger or division under**
10 **this section.**

11 **(6) An order under this section does not require an election on district boundaries and**
12 **is not subject to remonstrance or other procedures for boundary changes.**

13 **(7) An order under this section becomes effective on July 1, 2007.**

14 **SECTION 6. During the period after an order is entered under section 5 of this 2005 Act**
15 **and prior to the effective date of the order, the board of directors of a new education service**
16 **district may take any action necessary for the district to carry out its functions, including**
17 **the preparation and adoption of a budget for the district. Expenditures of the education**
18 **service district board under this section shall be paid from the budgets of the education**
19 **service districts that were merged into the new education service district or from the edu-**
20 **cation service district that was divided.**

21 **SECTION 7. Notwithstanding the effective date of an order under section 5 of this 2005**
22 **Act, electors are entitled to vote in any elections affecting a new education service district**
23 **in which the electors will reside when the order takes effect.**

24 **SECTION 8. (1) The State Board of Education shall adopt, by rule, criteria that are based**
25 **on the requirements of this chapter for the approval of local service plans by education**
26 **service district budget committees under ORS 334.175.**

27 **(2) The State Board of Education shall adopt, by rule, criteria for entrepreneurial ser-**
28 **vices offered by education service districts under ORS 334.185.**

29 **SECTION 9. ORS 334.005 is amended to read:**

30 334.005. (1) The mission of education service districts is to assist school districts and the De-
31 partment of Education in achieving Oregon's educational goals by providing equitable, high quality,
32 cost-effective and locally responsive educational services at a regional level. **Education service**
33 **districts shall work as liaisons between the Department of Education and school districts to**
34 **facilitate and support the efforts of school districts to meet the requirements of state and**
35 **federal law.**

36 **(2) Education service districts shall work with the department to analyze student**
37 **achievement data and other data to identify areas that need improvement and, as appropri-**
38 **ate, design solutions that can be implemented through regional and statewide collaboration.**

39 [(2)] **(3) An education service district plays a key role in:**

40 (a) Ensuring an equitable and excellent education for all children in the state;

41 (b) Implementing the Oregon Educational Act for the 21st Century;

42 (c) Fostering the attainment of high standards of performance by all students in Oregon's public
43 schools; and

44 (d) Facilitating interorganizational coordination and cooperation among educational, social ser-
45 vice, health care and employment training agencies.

1 [(3)] (4) An education service district's role is one of leadership and service. Education service
2 districts shall maintain the distinction between their role as service organizations and the regula-
3 tory role of the Department of Education and other state agencies.

4 [(4)] (5) To ensure that an education service district is locally responsive, an education service
5 district shall provide:

6 (a) Opportunities for component school districts to participate in decisions about the services
7 that are offered by the education service district **pursuant to the local service plan developed**
8 **pursuant to ORS 334.175**; and

9 (b) A variety of flexible service delivery models **pursuant to the local service plan developed**
10 **pursuant to ORS 334.175**.

11 [(5)] (6) An education service district shall remain accountable to:

12 (a) The public at large;

13 (b) The component school districts; and

14 (c) The State Board of Education.

15 **SECTION 10.** ORS 334.175 is amended to read:

16 334.175. (1) [*The education service district or a combination of education service districts or a*
17 *school district or other public or private entity under contract with an education service district or*
18 *districts may provide services and facilities, including but not limited to central purchasing, library,*
19 *curriculum material, special teachers and special programs including but not limited to teachers and*
20 *programs under ORS chapter 343 and any other relevant services to all school districts which are a*
21 *part of the education service district or districts. If the education service district owns a planetarium,*
22 *the district may promote public events and may sell tickets for public events at the planetarium.] **An**
23 **education service district shall provide regionalized core services to component school dis-**
24 **tricts. The goals of these services are to:***

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

27 (b) **Improve student learning;**

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

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

30 (e) **Enable component school districts and the students who attend schools in those dis-**
31 **tricts to have equitable access to resources; and**

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

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

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

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

45 (c) **School improvement services for component school districts, including but not limited**

1 to services designed to support component school districts in meeting the requirements of
2 state and federal law, services designed to allow the education service district to participate
3 in and facilitate a review of the state and federal standards related to the provision of a
4 quality education by component school districts, services designed to support and facilitate
5 continuous school improvement planning, services designed to address schoolwide behavior
6 and climate issues and professional technical education and professional development for
7 employees who provide those services.

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

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

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

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

19 *[(2) The extent and nature of such facilities and services]*

20 (5) A local service plan must *[be]*:

21 (a) Be approved by the budget committee of an education service district based on cri-
22 teria adopted by the State Board of Education.

23 (b) After being approved by the budget committee, be adopted by the board of the edu-
24 cation service district.

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

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

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

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

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

44 (7) An education service district may provide the services required by the local service
45 plan directly with the staff of the district. In addition, an education service district may

1 **provide services required by the local service plan through the operation of a public school,**
2 **a public charter school pursuant to ORS chapter 338, an alternative school or a preschool.**

3 **(8) An education service district may provide the services required by the local service**
4 **plan in cooperation with another education service district or with a school district. In ad-**
5 **dition, an education service district may contract with a public or private entity for the**
6 **provision of services.**

7 **SECTION 11.** ORS 334.177, as amended by section 29, chapter 695, Oregon Laws 2001, is
8 amended to read:

9 334.177. An education service district board shall expend at least 90 percent of all amounts re-
10 ceived from the State School Fund and at least 90 percent of all amounts considered to be local
11 revenues of an education service district, as defined in ORS 327.019, on services *[or programs]* **re-**
12 **quired by the local service plan** *[that have been approved by the component school districts of the*
13 *education service district through the resolution process described in]* **developed pursuant to ORS**
14 **334.175.**

15 **SECTION 12.** ORS 334.185 is amended to read:

16 334.185. (1) *[Facilities and services authorized under ORS 334.175 (1) may be provided to compo-*
17 *nent school districts which are not a part of the education service district or districts by agreement on*
18 *a reimbursable basis. However, the pupils residing in such districts shall not be included in the com-*
19 *putation of the percentage required by ORS 334.175 (2)(a). The facilities and services may also be*
20 *provided to other public or private entities by agreement or on a reimbursable basis.]* **An education**
21 **service district may provide entrepreneurial services to public and private entities and to**
22 **school districts that are not component school districts of the education service district if:**

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

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

25 **(c) The primary purpose of the services is to address a need of component school dis-**
26 **tricts; and**

27 **(d) The services meet the criteria established by the State Board of Education for**
28 **entrepreneurial services.**

29 **(2) Entrepreneurial services may be provided by contract or on a reimbursable basis.**
30 Expenditures by the education service district board for *[special]* **entrepreneurial** services *[and fa-*
31 *ilities]* provided on a reimbursable basis under this section shall be limited to the moneys received
32 for the purpose specified and are not subject to the Local Budget Law (ORS 294.305 to 294.565) **but**
33 **are subject to an annual financial report to the budget committee and board of the education**
34 **service district.**

35 (3) Budget estimates of expenditures for *[special]* **entrepreneurial** services *[and facilities]* pro-
36 vided under this section must show the estimates of moneys receivable and must be shown as off-
37 setting revenue items.

38 **SECTION 13.** ORS 334.125 is amended to read:

39 334.125. (1) The education service district is a body corporate.

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

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

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

45 (b) Conduct of audits;

1 (c) Duties as district boundary board;

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

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

7 (f) Creating a county education bond district under ORS 328.304 from a county within the dis-
8 trict.

9 (4) In addition to its duties under subsection (3) of this section [*and duties arising under ORS*
10 *334.175, with the approval of the component school districts through the resolution process described*
11 *in ORS 334.175, the board may*], **an education service district board may provide services re-**
12 **quired by the local service plan developed pursuant to ORS 334.175 and may**

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

15 [*(b) Provide staff development;*]

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

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

18 [*(e) Plan and provide for educational communication and distribution services, including telecom-*
19 *munications systems;*]

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

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

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

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

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

31 (b) May acquire personal property by a lease-purchase agreement or contract of purchase for a
32 term exceeding one year. A lease-purchase agreement is one in which the rent payable by the dis-
33 trict is expressly agreed to have been established to reflect the savings resulting from the exemption
34 from taxation, and the district is entitled to ownership of the property at a nominal or other price
35 which is stated or determinable by the terms of the agreement and was not intended to reflect the
36 true value of the property.

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

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

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

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

1 duties of the board.

2 (8) The education service district may contract with public and private entities for service de-
3 livery.

4 (9)(a) The education service district shall work cooperatively with component school districts
5 *[and]* **to** review *[periodically with component school districts the operations of component school dis-*
6 *tricts]* **support services** and shall submit *[to the component school districts]* **to the budget com-**
7 **mittee of the education service district business** plans *[for operations]* that achieve economies
8 and efficiencies through consolidation of various *[operations]* **support services** of all or some of the
9 districts. The education service district and its component school districts shall submit an annual
10 report on the effectiveness of the consolidation of *[operations]* **support services** to the State Board
11 of Education.

12 (b) As used in this subsection, *["operations" means services involving transportation, payroll, stu-*
13 *dent records, auditing, legal services, insurance, printing, investment and other similar services]*
14 **"support services" means those services that provide administrative, technical, personal and**
15 **logistical support to facilitate and enhance instruction.**

16 **SECTION 14.** ORS 334.240 is amended to read:

17 334.240. (1) The education service district board shall be subject in all respects to the Local
18 Budget Law (ORS 294.305 to 294.565), except that *[in addition to other qualifications, members of the*
19 *budget committee who are not members of the education service district board shall be members of*
20 *component school district boards within the education service district or shall be designees of a school*
21 *district board]* **the budget committee of the education service district shall consist of compo-**
22 **nent school district superintendents. Component school district boards shall appoint two**
23 **members to the budget committee from each zone established under ORS 334.032. A school**
24 **district superintendent who is appointed by the component school district boards may des-**
25 **ignate another employee of the component school district to serve on the budget**
26 **committee.**

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

31 *[(3)]* **(2)** The board of the education service district *[is authorized to]* **shall** prepare and adopt a
32 budget for *[its own]* **the operational and administrative** expenses *[and for its operational, admin-*
33 *istrative and resolution services expenses. The board's own expenses include expenses for travel, for*
34 *providing the board with professional and clerical assistance, and for such services, equipment and*
35 *supplies as the board may require]* **of the education service district.** The *[board's]* budget *[may]*
36 **shall** include amounts necessary to provide *[special]* services *[and facilities authorized by]* **required**
37 **by the local service plan of the district developed under** ORS 334.175 *[(1) and (2), and to support*
38 *providing services and programs for children with disabilities, for the talented and gifted or for bilin-*
39 *gual or English as a second language education as these programs are described in ORS 336.074,*
40 *336.079, 343.035, 343.397 and 343.830].*

41 **SECTION 15.** **The terms of office of members of budget committees of education service**
42 **districts who were not appointed pursuant to ORS 334.240, as amended by section 14 of this**
43 **2005 Act, shall terminate on June 30, 2007.**

44 **SECTION 16.** ORS 334.370 is amended to read:

45 334.370. The education service district board may include in *[its own]* **the** budget[,] adopted

1 pursuant to ORS 334.240[,] an emergency aid fund for use, at the discretion of the board, in aiding
2 school districts within the education service district with emergency expenses unforeseen at the
3 time of making the budget of such districts. The emergency aid fund shall not exceed five percent
4 of the combined budget of all districts included in such education service district.

5 **SECTION 17.** ORS 343.221 is amended to read:

6 343.221. In order to provide special education for children with disabilities, the district school
7 board of any school district in which there are school-age children who require special education:

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

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

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

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

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

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

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

26 (b) **The school district contracts with an education service district pursuant to ORS
27 334.185.**

28 [(4)] (5) May contract with private agencies or organizations approved by the State Board of
29 Education for special education.

30 [(5)] (6) May use the services of public agencies, including community mental health and devel-
31 opmental disabilities programs, which provide diagnostic, evaluation and other related services for
32 children.

33 [(6)] (7) May contract for the provision of related services by a person in private practice if that
34 person is registered, certified or licensed by the State of Oregon as qualified to provide a particular
35 related service that requires registration, certification or licensing by the state.

36 **SECTION 18.** ORS 326.712 is amended to read:

37 326.712. The Superintendent of Public Instruction may contract with an education service dis-
38 trict or a school district to provide teachers, counselors or other personnel for the Youth Cor-
39 rections Education Program and the Juvenile Detention Education Program. However, the programs
40 may not be considered a component district and the students enrolled in the programs may not be
41 counted in determining the number of pupils in average daily membership for purposes of ORS
42 334.175 [(2)(a)] (5).

43 **SECTION 19.** ORS 334.010 is amended to read:

44 334.010. There is created in each region a district to be known as the education service
45 district. [*to consist of the counties and the area of the common school districts as listed in ORS*

1 334.020, with a governing body thereof to be] **Each education service district shall have a gov-**
2 **erning body** known as the education service district board.

3 **SECTION 20.** ORS 334.020 is amended to read:

4 334.020. [(1) On and after the effective date of the order entered under section 25, chapter 784,
5 Oregon Laws 1993, except as the boundaries of an education service district may be changed by merger
6 under ORS 334.710 to 334.770 or other provision of law, the education service districts are as
7 follows:]

8 [(a) Region 1. Clatsop, Columbia, Tillamook and Washington Counties.]

9 [(b) Region 2. Multnomah County.]

10 [(c) Region 3. Marion and Polk Counties.]

11 [(d) Region 4. Lincoln, Linn and Benton Counties.]

12 [(e) Region 5. Lane County.]

13 [(f) Region 6. Douglas County.]

14 [(g) Region 7. Coos and Curry Counties and the area lying within the Reedsport School District.]

15 [(h) Region 8. Jackson, Josephine and Klamath Counties.]

16 [(i) Region 9. Hood River and Wasco Counties.]

17 [(j) Region 10. Crook and Deschutes Counties.]

18 [(k) Region 11. Lake County.]

19 [(L) Region 12. Umatilla and Morrow Counties.]

20 [(m) Region 13. Union and Baker Counties.]

21 [(n) Region 14. Malheur County and the area comprising the Huntington School District.]

22 [(o) Region 15. Clackamas County.]

23 [(p) Region 16. Yamhill County.]

24 [(q) Region 17. Harney County.]

25 [(r) Region 18. Wallowa County.]

26 [(s) Region 19. Sherman, Gilliam and Wheeler Counties.]

27 [(t) Region 20. Grant County.]

28 [(u) Region 21. Jefferson County and the area comprising the Warm Springs Reservation.]

29 [(2) Where] **If** a boundary change or formation of a component school district results in a joint
30 school district, the joint school district shall be included in the education service district in which
31 the joint district's administrative office is located.

32 **SECTION 21.** ORS 334.025 is amended to read:

33 334.025. (1) The board of directors of an education service district shall consist of [*seven*,] nine
34 [*or 11*] members **as follows:**

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

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

39 **(A) Public post-secondary institutions located within the education service district;**

40 **(B) Social service providers; and**

41 **(C) The business community.**

42 [(2) In education service districts, not fewer than five of the directors shall be elected, one from
43 each of the zones established under ORS 334.032. At the discretion of the board of directors, one or two
44 board members may be elected from the district at large.]

45 [(3)] **(2) On the petition of two component school districts, the board of directors of an edu-**

1 **cation service district** shall establish local advisory committees to represent the interests of areas
2 within the petitioning districts. The local advisory committees shall advise the board on matters of
3 concern within the advisory committee's area. Local advisory committees shall represent two or
4 more component school districts.

5 *[(4) The board of directors may by resolution increase or decrease the number of members of the*
6 *board. The board's resolution shall be entered with sufficient time for the board to give the required*
7 *information to the elections officer under ORS 255.069, and the board's resolution shall have no effect*
8 *on the terms of any current board members.]*

9 **(3) The board of directors of an education service district shall establish a local advisory**
10 **committee that represents preschool education providers within the district. The advisory**
11 **committee shall:**

12 **(a) Advise the board on the effects of the local service plan developed pursuant to ORS**
13 **334.175 on local preschool education providers;**

14 **(b) Facilitate communication between preschool and kindergarten through grade 12 edu-**
15 **cation providers on issues of common interest; and**

16 **(c) Facilitate appropriate joint ventures between preschool and kindergarten through**
17 **grade 12 education providers.**

18 **SECTION 22.** ORS 334.032 is amended to read:

19 334.032. (1) The board of directors of an education service district shall divide the education
20 service district into *[not more than 11]* **five** zones as nearly equal in census population as may be
21 practicable, measured along common school district boundary lines. *[except that zones may be es-*
22 *tablished using voting precinct boundaries in order to achieve greater equality of population. If possi-*
23 *ble, the board shall establish the zones so that each county within the education service district, the*
24 *majority of the land area of which lies within the boundaries of the education service district, has at*
25 *least one member on the board.]*

26 *[(2) Each county within the education service district, the majority of the land area of which lies*
27 *within the boundaries of the education service district, shall have at least one member on the board*
28 *or shall have at least one member on the budget committee of the education service district.]*

29 *[(3)]* **(2)** The board may readjust the boundaries of the zones once each year and shall readjust
30 the boundaries of the zones immediately upon any change of the boundaries of the education service
31 district **or a component school district.**

32 **(3) The boards of the component school districts within each zone shall elect a repre-**
33 **sentative to serve on the board of directors of the education service district. Each school**
34 **district board shall have one vote.**

35 **SECTION 23.** (1) **Before March 1, 2007, the boards of directors of all education service**
36 **districts within the boundaries of an education service district that will exist on or after July**
37 **1, 2007, shall meet together upon the call of the chairperson of the board of the most popu-**
38 **larous district for the purpose of dividing the education service district into zones to meet the**
39 **requirements of ORS 334.032, as amended by section 22 of this 2005 Act. Before March 1, 2007,**
40 **the plan for the zones of an education service district shall be submitted to the State Board**
41 **of Education for approval.**

42 **(2) Notwithstanding ORS 334.090, the terms of office of the directors first elected or ap-**
43 **pointed to the board of directors of an education service district under ORS 334.025, as**
44 **amended by section 21 of this 2005 Act, shall be staggered so that:**

45 **(a) One director who is elected and one director who is appointed shall serve for terms**

1 **expiring June 30, 2008.**

2 **(b) One director who is elected and one director who is appointed shall serve for terms**
3 **expiring June 30, 2009.**

4 **(c) One director who is elected and one director who is appointed shall serve for terms**
5 **expiring June 30, 2010.**

6 **(d) Two directors who are elected and one director who is appointed shall serve for terms**
7 **expiring June 30, 2011.**

8 **(3) The directors first elected or appointed under ORS 334.025, as amended by section 21**
9 **of this 2005 Act, shall determine by lot the length of the term each shall serve on the edu-**
10 **cation service district board.**

11 **(4) Notwithstanding ORS 334.090, the terms of office of directors serving on the board**
12 **of an education service district who were not elected or appointed pursuant to ORS 334.025,**
13 **as amended by section 21 of this 2005 Act, shall terminate on June 30, 2007.**

14 **SECTION 24.** ORS 334.090 is amended to read:

15 334.090. (1) The term of office of director of an education service district shall be four years.

16 (2) The term of office of each director of an education service district shall begin on July 1 next
17 following the date of election **or appointment**. A director shall serve until June 30 next following
18 the election **or appointment** of a successor.

19 **(3) Any vacancy on the board of directors of an education service district that occurs**
20 **before the end of the term of office of a director of an education service district shall be**
21 **filled following the process described in ORS 334.025. The director shall serve for the re-**
22 **mainder of the term.**

23 [(3)] (4) A director of an education service district must qualify by taking an oath of office be-
24 fore assuming the duties of office.

25 [(4) *A newly appointed director of an education service district shall take office at the meeting of*
26 *the education service district board next following the appointment.*]

27 (5) A person is not eligible to serve as a director of an education service district unless the
28 person is an elector of the district and has resided therein for a period of one year immediately
29 preceding the election or appointment.

30 (6) No employee of an education service district is eligible to serve as a director of the educa-
31 tion service district by which the employee is employed.

32 [(7) *A regular district election shall be held in a district to fill any vacancy and to elect a successor*
33 *for any director whose term expires June 30 next following the election. A successor shall be elected*
34 *as follows:*]

35 [(a) *If the director was elected from a zone established under ORS 334.032, a successor from the*
36 *same zone shall be elected by the electors of the zone.*]

37 [(b) *If the director was elected at large a successor shall be elected at large by the electors of the*
38 *district.*]

39 [(8) *Notwithstanding subsection (7) of this section, in any district having a population of 550,000*
40 *or more according to the latest federal census that becomes zoned according to ORS 334.032, the board*
41 *shall determine prior to the nomination of school directors which positions shall be from zones and*
42 *which positions shall be at large.*]

43 [(9) *Any vacancy on the board from any zone shall be filled by the remaining directors from among*
44 *the qualified persons in that zone. Any such vacancy from the district at large shall be filled by the*
45 *remaining directors from among the qualified persons in the district. However, if vacancies occur in a*

1 majority of the positions on the board, the State Board of Education shall fill the vacancies from among
2 the qualified persons of the zones, if any, or from among other persons who are qualified to serve. The
3 period of service of an appointee under this subsection expires June 30 next following the next regular
4 district election at which a successor is elected. The successor shall be elected to serve the remainder,
5 if any, of the term for which the appointment was made. If the term for which the appointment was
6 made expires June 30 after the election of the successor, the successor shall be elected to a full term.
7 In either case, the successor shall take office July 1 next following the election.]

8 **SECTION 25.** ORS 334.095 is amended to read:

9 334.095. (1) The education service district board shall declare the office of director vacant upon
10 the happening of any of the following:

11 (a) When an incumbent dies or resigns;

12 (b) When an incumbent is removed from office or the election **or appointment** thereto has been
13 declared void by the judgment of any court;

14 (c) When an incumbent ceases to be a resident of the education service district;

15 (d) [*Subject to the provision of subsection (2) of this section,*] When an incumbent ceases to be a
16 resident of the zone from which [*nominated*] **elected; or**

17 (e) When an incumbent ceases to discharge the duties of office for two consecutive months un-
18 less prevented therefrom by sickness or other unavoidable cause[; or].

19 [*f) When an incumbent is recalled.*]

20 [(2) A director nominated from a zone who changes permanent residence from one zone to another
21 zone in which another director resides shall continue to serve as director until the next regular election
22 when a successor shall be elected to serve for the remainder of the unexpired term.]

23 [(3)] (2) A director guilty of misfeasance or malfeasance in office, by the appropriate proceeding,
24 may be removed from office by a court of competent jurisdiction.

25 [(4) Members may be recalled in the manner provided in ORS 249.865 to 249.877. If the member
26 was elected by a zone, the recall petition shall be signed by electors from that zone and electors from
27 the zone are the only electors eligible to vote in the recall election. If the member was elected at large,
28 the recall petition shall be signed by electors from the district and electors from the district are eligible
29 to vote in the recall election.]

30 **SECTION 26.** ORS 334.730 is amended to read:

31 334.730. [(1)] Immediately after the order to join two or more education service districts to-
32 gether, the boards of directors of all education service districts within the boundaries of the new
33 district shall meet together upon the call of the chairperson of the board of the most populous dis-
34 trict. [*Notwithstanding ORS 334.025 or ORS chapter 255, the joint board of directors*] **The boards**
35 shall divide the new district into [*as many*] **five** zones as **required by ORS 334.032.** [*the board con-*
36 *siders necessary, but not fewer than seven nor more than 11. The zones shall be as nearly equal in*
37 *population as may be practicable. If possible, the joint board shall establish the zones so that each*
38 *county within the new education service district, the majority of the land area of which lies within the*
39 *boundaries of the education service district, has at least one member on the board.*]

40 [(2) Within 90 days after the zones required in subsection (1) of this section are established, the
41 joint board of directors shall call a special election in the new district for the purpose of electing di-
42 rectors, one of whom shall be elected from each zone established under subsection (1) of this section
43 by the electors of the zone.]

44 **SECTION 27.** ORS 334.750 is amended to read:

45 334.750. (1) The board of directors of the new education service district shall take office on July

1 1 *[of the year following its election]* **following the order to join two or more education service**
2 **districts.**

3 (2) The minority of directors of the new education service district shall serve terms expiring
4 June 30 *[next following the first regular district election]* **two years after the directors took office,**
5 and the majority of directors shall serve terms expiring June 30 *[next following the second regular*
6 *district election]* **four years after the directors took office.**

7 (3) The directors first elected **or appointed** shall determine by lot the length of term each shall
8 hold office.

9 (4) Notwithstanding any other provisions of law, the term of office of boards of directors of
10 preexisting education service districts shall terminate on the date in which the new education ser-
11 vice district comes into existence and its new board of directors qualifies to hold office.

12 **SECTION 28.** ORS 334.760 is amended to read:

13 334.760. During the period following their election **or appointment** and prior to the date the
14 new education service district comes into existence, the board of directors of the new education
15 service district may take such action as is essential in order that the new district may carry out its
16 required functions when it comes into existence, including the preparation and adoption of a budget
17 for the new district. Expenditures of the board under this section shall be paid from the budgets of
18 the component education service districts on a prorated basis.

19 **SECTION 29.** ORS 243.650 is amended to read:

20 243.650. As used in ORS 243.650 to 243.782, unless the context requires otherwise:

21 (1) "Appropriate bargaining unit" means the unit designated by the Employment Relations Board
22 or voluntarily recognized by the public employer to be appropriate for collective bargaining. How-
23 ever, an appropriate bargaining unit cannot include both academically licensed and unlicensed or
24 nonacademically licensed school employees. Academically licensed units may include but are not
25 limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and
26 similar positions. This limitation shall not apply to any bargaining unit certified or recognized prior
27 to June 6, 1995, *[or]* to any school district with fewer than 50 employees **or to any education ser-**
28 **vice district.**

29 (2) "Board" means the Employment Relations Board.

30 (3) "Certification" means official recognition by the board that a labor organization is the ex-
31 clusive representative for all of the employees in the appropriate bargaining unit.

32 (4) "Collective bargaining" means the performance of the mutual obligation of a public employer
33 and the representative of its employees to meet at reasonable times and confer in good faith with
34 respect to employment relations for the purpose of negotiations concerning mandatory subjects of
35 bargaining, to meet and confer in good faith in accordance with law with respect to any dispute
36 concerning the interpretation or application of a collective bargaining agreement, and to execute
37 written contracts incorporating agreements that have been reached on behalf of the public employer
38 and the employees in the bargaining unit covered by such negotiations. The obligation to meet and
39 negotiate does not compel either party to agree to a proposal or require the making of a concession.
40 Nothing in this subsection shall be construed to prohibit a public employer and a certified or re-
41 cognized representative of its employees from discussing or executing written agreements regarding
42 matters other than mandatory subjects of bargaining that are not prohibited by law, so long as there
43 is mutual agreement of the parties to discuss these matters, which are permissive subjects of bar-
44 gaining.

45 (5) "Compulsory arbitration" means the procedure whereby parties involved in a labor dispute

1 are required by law to submit their differences to a third party for a final and binding decision.

2 (6) "Confidential employee" means one who assists and acts in a confidential capacity to a per-
3 son who formulates, determines and effectuates management policies in the area of collective bar-
4 gaining.

5 (7)(a) "Employment relations" includes, but is not limited to, matters concerning direct or indi-
6 rect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of
7 employment.

8 (b) "Employment relations" does not include subjects determined to be permissive, nonmanda-
9 tory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

10 (c) After June 6, 1995, "employment relations" shall not include subjects which the Employment
11 Relations Board determines to have a greater impact on management's prerogative than on employee
12 wages, hours, or other terms and conditions of employment.

13 (d) "Employment relations" shall not include subjects that have an insubstantial or de minimis
14 effect on public employee wages, hours, and other terms and conditions of employment.

15 (e) For school district bargaining, "employment relations" shall expressly exclude class size, the
16 school or educational calendar, standards of performance or criteria for evaluation of teachers, the
17 school curriculum, reasonable dress, grooming and at-work personal conduct requirements respect-
18 ing smoking, gum chewing and similar matters of personal conduct, the standards and procedures
19 for student discipline, the time between student classes, the selection, agendas and decisions of 21st
20 Century Schools Councils established under ORS 329.704, and any other subject proposed that is
21 permissive under paragraphs (b), (c) and (d) of this subsection.

22 (f) For all other employee bargaining except school districts, "employment relations" expressly
23 excludes staffing levels and safety issues (except those staffing levels and safety issues which have
24 a direct and substantial effect on the on-the-job safety of public employees), scheduling of services
25 provided to the public, determination of the minimum qualifications necessary for any position, cri-
26 teria for evaluation or performance appraisal, assignment of duties, workload when the effect on
27 duties is insubstantial, reasonable dress, grooming, and at-work personal conduct requirements re-
28 specting smoking, gum chewing, and similar matters of personal conduct at work, and any other
29 subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

30 (8) "Exclusive representative" means the labor organization that, as a result of certification by
31 the board or recognition by the employer, has the right to be the collective bargaining agent of all
32 employees in an appropriate bargaining unit.

33 (9) "Fact-finding" means identification of the major issues in a particular labor dispute by one
34 or more impartial individuals who review the positions of the parties, resolve factual differences and
35 make recommendations for settlement of the dispute.

36 (10) "Fair-share agreement" means an agreement between the public employer and the recog-
37 nized or certified bargaining representative of public employees whereby employees who are not
38 members of the employee organization are required to make an in-lieu-of-dues payment to an em-
39 ployee organization except as provided in ORS 243.666. Upon the filing with the board of a petition
40 by 30 percent or more of the employees in an appropriate bargaining unit covered by such union
41 security agreement declaring they desire that such agreement be rescinded, the board shall take a
42 secret ballot of the employees in such unit and certify the results thereof to the recognized or cer-
43 tified bargaining representative and to the public employer. Unless a majority of the votes cast in
44 an election favor such union security agreement, the board shall certify deauthorization thereof. A
45 petition for deauthorization of a union security agreement must be filed not more than 90 calendar

1 days after the collective bargaining agreement is executed. Only one such election shall be con-
2 ducted in any appropriate bargaining unit during the term of a collective bargaining agreement be-
3 tween a public employer and the recognized or certified bargaining representative.

4 (11) "Final offer" means the proposed contract language and cost summary submitted to the
5 mediator within seven days of the declaration of impasse.

6 (12) "Labor dispute" means any controversy concerning employment relations or concerning the
7 association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to
8 arrange terms or conditions of employment relations, regardless of whether the disputants stand in
9 the proximate relation of employer and employee.

10 (13) "Labor organization" means any organization that has as one of its purposes representing
11 employees in their employment relations with public employers.

12 (14) "Last best offer package" means the offer exchanged by parties not less than 14 days prior
13 to the date scheduled for an interest arbitration hearing.

14 (15) "Legislative body" means the Legislative Assembly, the city council, the county commission
15 and any other board or commission empowered to levy taxes.

16 (16) "Managerial employee" means an employee of the State of Oregon who possesses authority
17 to formulate and carry out management decisions or who represents management's interest by tak-
18 ing or effectively recommending discretionary actions that control or implement employer policy,
19 and who has discretion in the performance of these management responsibilities beyond the routine
20 discharge of duties. A "managerial employee" need not act in a supervisory capacity in relation to
21 other employees. Notwithstanding this subsection, "managerial employee" shall not be construed
22 to include faculty members at a community college, college or university.

23 (17) "Mediation" means assistance by an impartial third party in reconciling a labor dispute
24 between the public employer and the exclusive representative regarding employment relations.

25 (18) "Payment-in-lieu-of-dues" means an assessment to defray the cost for services by the exclu-
26 sive representative in negotiations and contract administration of all persons in an appropriate
27 bargaining unit who are not members of the organization serving as exclusive representative of the
28 employees. The payment shall be equivalent to regular union dues and assessments, if any, or shall
29 be an amount agreed upon by the public employer and the exclusive representative of the employees.

30 (19) "Public employee" means an employee of a public employer but does not include elected
31 officials, persons appointed to serve on boards or commissions, incarcerated persons working under
32 section 41, Article I of the Oregon Constitution, or persons who are confidential employees, super-
33 visory employees or managerial employees.

34 (20) "Public employer" means the State of Oregon, and the following political subdivisions:
35 Cities, counties, community colleges, school districts, special districts, mass transit districts, metro-
36 politan service districts, public service corporations or municipal corporations and public and
37 quasi-public corporations.

38 (21) "Public employer representative" includes any individual or individuals specifically desig-
39 nated by the public employer to act in its interests in all matters dealing with employee represen-
40 tation, collective bargaining and related issues.

41 (22) "Strike" means a public employee's refusal in concerted action with others to report for
42 duty, or his or her willful absence from his or her position, or his or her stoppage of work, or his
43 or her absence in whole or in part from the full, faithful or proper performance of his or her duties
44 of employment, for the purpose of inducing, influencing or coercing a change in the conditions,
45 compensation, rights, privileges or obligations of public employment; however, nothing shall limit

1 or impair the right of any public employee to lawfully express or communicate a complaint or
2 opinion on any matter related to the conditions of employment.

3 (23) "Supervisory employee" means any individual having authority in the interest of the em-
4 ployer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline
5 other employees, or responsibly to direct them, or to adjust their grievances, or effectively to re-
6 commend such action, if in connection therewith, the exercise of such authority is not of a merely
7 routine or clerical nature but requires the use of independent judgment. Failure to assert supervi-
8 sory status in any Employment Relations Board proceeding or in negotiations for any collective
9 bargaining agreement shall not thereafter prevent assertion of supervisory status in any subsequent
10 board proceeding or contract negotiation. Notwithstanding the provisions of this subsection, no
11 nurse, charge nurse or similar nursing position shall be deemed to be supervisory unless such posi-
12 tion has traditionally been classified as supervisory.

13 (24) "Unfair labor practice" means the commission of an act designated an unfair labor practice
14 in ORS 243.672.

15 (25) "Voluntary arbitration" means the procedure whereby parties involved in a labor dispute
16 mutually agree to submit their differences to a third party for a final and binding decision.

17 **SECTION 30. ORS 334.022, 334.035, 334.045 and 334.740 are repealed.**

18 **SECTION 31. The amendments to ORS 334.010, 334.020, 334.025, 334.032, 334.090, 334.095,
19 334.240, 334.370, 334.730, 334.750 and 334.760 by sections 14, 16, 19 to 22 and 24 to 28 of this 2005
20 Act and the repeal of ORS 334.022, 334.035, 334.045 and 334.740 by section 30 of this 2005 Act
21 become operative on July 1, 2007.**

22 **SECTION 32. This 2005 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
24 July 1, 2005.**