

STORAGE NAME: h0981s1.edk

DATE: April 1, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 981

RELATING TO: Instructional Materials

SPONSOR(S): Committee on Education K-12 and Representative Livingston

STATUTE(S) AFFECTED: Amending ss. 229.512, 233.07, 233.09, 233.061, 233.11, 233.16, 233.17, 233.18, 233.25, 233.34, 233.46, F.S.

COMPANION BILL(S): SB 798 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION K-12 YEAS 11 NAYS 0
- (2) CIVIL JUSTICE & CLAIMS
- (3)
- (4)
- (5)

I. SUMMARY:

The bill increases the Commissioner of Education's authority over the instructional materials adoption process. The commissioner is authorized to prescribe procedures for adoption of instructional materials, and is given more flexibility to establish criteria, determine the number of titles, and remove members from the state instructional materials adoption committee.

The bill extends the term of adoption for instructional materials from six to eight years, except for specified core subject areas. Publishers are authorized to offer a cash deposit instead of the required bond for contracts involving instructional materials.

The bill provides a list of instructional materials, not on the state-adopted list, that may be purchased with flexibility funds. This list excludes the purchase of electronic or computer hardware.

The bill permits a principal to suspend a student from participation in extracurricular activities or require the student to perform school community service hours if the student fails to pay for lost or damaged instructional materials.

The bill provides the option to study the Federal Government, the state, and the counties, municipalities, school districts, and special districts, within the required course on civil government.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

“Instructional materials” are defined as items that, by design, serve as a major tool for assisting in the instruction of a subject or course. These items include hardbacked or softbacked textbooks, consumables, learning laboratories, slides, films and filmstrips, recordings, manipulatives, computer course work, video discs, or other such electronic media, and other commonly accepted instructional tools. (s. 233.07, F.S.)

Instructional Materials Adoption Process

Florida’s instructional materials adoption process requires that all instructional materials submitted for consideration be evaluated based on their ability to implement the selection criteria developed by the Commissioner of Education and those curricular objectives included within applicable curriculum frameworks approved by the State Board of Education and the state and district performance standards provided for in ss. 229.565 and 232.2454, F.S.

The Commissioner of Education is responsible for developing criteria for use by state instructional materials committees in evaluating materials submitted for adoption consideration. (s. 229.512, F.S.) The criteria for each subject or course must be made available to publishers of instructional materials at least 24 months prior to the date on which bids are due as provided by s. 233.14, F.S.

Each school year the commissioner appoints state instructional materials committees for the different subject areas and grade levels being considered. (s. 233.07, F.S.) Each nine-member committee is composed of four classroom teachers who teach in the academic area and level for which materials are being considered, two lay persons not professionally connected with education, one school board member, and two supervisors of teachers. These committee members receive training and serve 18-month terms. Each committee shall meet at the call of its chair, at the request of a majority of its membership, at the request of the division, or at such times as may be prescribed by its rules. Any member who fails to attend two consecutive meetings without cause may be removed by the commissioner.

Instructional materials recommended for mathematics, science, and computer education must be consistent with the Comprehensive Plan for Mathematics, Science, and Computer Education. (s. 233.09(4)(e), F.S.)

School districts have the opportunity to evaluate materials submitted for adoption and to submit their recommendations to the state instructional materials committees. Guidelines for the composition of district instructional materials committees are similar to those for state instructional materials committees. (s. 233.09, F.S.) A district instructional materials committee must allow all interested publishers or manufacturers of instructional materials equal time to present their product to the committee. When submitting their findings to the state instructional materials committee, district instructional materials committees, professional associations, and individuals must rank all instructional materials evaluated numerically in relation to all other materials of the same type.

State instructional materials committees are required to prepare and submit to their members the districts’ recommendations to aid in the selection process. State committees then evaluate all instructional materials submitted based on the commissioner’s criteria, applicable curriculum frameworks, and state and district performance standards. Instructional material must also meet additional requirements of s. 233.09(4), F.S., regarding content and gender and racial equity. Following a thorough study of all the data submitted on each instructional material, state committees must submit a report to the commissioner which includes recommendations for adoption and a description of the procedures used. The commissioner then determines the number of titles to be adopted in each area, not to exceed fifteen titles. (s. 233.07, F.S.)

Once a contract has been awarded, the publisher or manufacturer must give a bond in such amount as the department deems advisable, payable to the state, conditioned for the faithful,

honest, and exact performance of the contract. (s. 233.16, F.S.) The bond must further provide for the payment of reasonable attorney's fees in case of recovery in any law suit. A copy of each contract and an original of each bid is kept by the Department of Education (DOE) for at least five years following the termination of the contract.

If a school board in good faith acquires instructional materials that fail to meet the instructional material requirements, and the school board is unable to acquire other instructional materials which meet the requirements in time to be used, the board may use the materials, but only for one academic year.

The term of adoption of instructional materials is six years. However, the State Board of Education may approve by rule terms of adoption of less than six years for materials in content areas which require more frequent revision.

Copies of all textbooks, which have been made the bases of instructional materials contracts, must be clearly marked and identified and must be deposited by their publishers with DOE and the superintendent of each school district that adopts such materials from the state list. These items must be preserved and kept open for inspection by the public.

Publishers and manufacturers must deliver copies of all instructional materials upon which bids or proposals are based to each member of a state instructional materials committee. Written descriptions and representative samples of each nonprint instructional material may be sent instead of actual copies to districts participating in pre-adoption evaluations.

Funding for Instructional Materials

Section 236.122, F.S., instructs the Legislature to annually allocate, in the General Appropriations Act (GAA), an amount to be used for instructional materials for public school students enrolled in basic and special programs in grades K-12. The instructional materials allocation is to be used for the purchase of "instructional materials" as defined by s. 233.074(4), F.S. A percentage of the amount allocated is to be spent on instructional materials *on the state-adopted list*, and a percentage of the amount is to be used for library and reference books and nonprint materials *not on the state-adopted list*. Instructional materials funds may also be used for the renovation and repair of textbooks and library books. DOE distributes to each district an amount, calculated by formula, which provides for growth of student membership in basic and special programs in the district and for instructional material maintenance needs. Guidelines for the use of the instructional materials allocation are established by s. 233.34, F.S.

Responsibility for Lost or Damaged Instructional Materials

Each principal is responsible to collect, from the pupil or pupil's parent, the purchase price of any instructional material the pupil has lost, destroyed, or unnecessarily damaged. (s. 233.46, F.S.)

The instructional materials purchased under chapter 233, Florida Statutes, are the property of the district and are loaned to the pupils of the school. Each parent, guardian, or other person in charge of a pupil to whom the material was issued is liable for any loss or destruction of, or unnecessary damage to, these materials. (s. 233.47, F.S.) The parent, guardian, or person in charge of a pupil is also liable for the failure to return the materials when directed by the principal or teacher, and is required to pay for the loss, destruction, or unnecessary damage as provided by law.

Required Instruction

The elements of civil government are required instruction for public schools in Florida.

B. EFFECT OF PROPOSED CHANGES:

Instructional Materials Adoption Process

The bill authorizes the commissioner to prescribe procedures for evaluating instructional materials submitted by publishers and manufacturers in each adoption.

The bill removes the limitation on the maximum number of titles to be adopted in each area that the commissioner may authorize. The bill removes obsolete language regarding state instructional materials committee term limits and removes the requirement that each committee meet at the call of the chair, at the request of a majority of the membership, at the request of the division, or at such time as prescribed by its rules. The bill permits the commissioner to remove a committee member for cause.

The bill revises the definition of instructional materials by requiring the materials to have intellectual content and updating obsolete terms. For example, the terms "slides, films, and filmstrips, and recordings" are removed and the term "electronic media" is inserted. Instructional materials do not include electronic or computer hardware even if such hardware is bundled with software or other electronic media.

The bill moves the language relating to the procedures for evaluating instructional materials from s. 233.09, F.S., to s. 233.16, F.S. However, the state committee will no longer be required to file a statement of procedures with the Commissioner, and district committees will not have to submit evaluations in a form or manner prescribed by the state committee. The bill removes the requirement that each state instructional materials committee consider curriculum frameworks with evaluating instructional materials and removes the requirement that the committees consider the state plan for mathematics, science, and computer education.

The bill removes the provision permitting school boards to use materials they have purchased that are not in compliance with state requirements.

The bill conforms language regarding instructional materials evaluation procedures.

A publisher or manufacturer may be allowed, at the discretion of the commissioner, to provide a cash deposit instead of a bond on a contract bid for instructional materials. The bill reduces the required time DOE must keep a copy of contracts from five to three years.

The bill extends the term of adoption for instructional materials from six years to eight years, except for the core subject areas which include mathematics, science, social studies, reading, and literature which must be used for a term not to exceed six years. The commissioner may approve terms of adoption of less than eight years for materials in content areas which require more frequent revision.

The bill requires DOE to annually publish an official schedule of subject areas to be called for adoption for each of the succeeding two years, and a tentative schedule for years three, four, five and six. Under extenuating circumstances, the commissioner may order DOE to add one or more subject areas to the official schedule, in which case the commissioner must develop criteria for such additional subject area or areas and make them available to publishers as soon as practicable. Notwithstanding the provisions of s. 229.512(15), F.S., the criteria for such additional subject area or areas may be provided to publishers less than 24 months prior to the date on which bids are due.

The bill requires a publisher to make materials available to DOE upon request, rather than the previous requirement that textbooks be kept available for inspection by the public.

The bill requires publishers to provide the actual instructional material to be evaluated for state adoption instead of a written description. Obsolete language relating to outdated standards is substituted with language applying the Sunshine State Standards. The bill clarifies the requirement that publishers describe how their instructional materials meet specifications and criteria written by DOE.

Funding for Instructional Materials

The bill provides a list of instructional materials, not on the state-adopted list, that may be purchased with waiver or flexibility funds. However, such flexibility excludes the purchase of electronic or computer hardware.

Responsibility for Lost or Damaged Instructional Materials

Under the bill, a principal is authorized to suspend a student from participation in extracurricular activities or require the student to perform community service hours at the school if the student fails to pay for lost or damaged instructional materials.

Required Instruction

The bill provides the option to study of the Federal Government, the state, and the counties, municipalities, school districts, and special districts, within the required course on civil government.

In August 1996, the Commissioner of Education formed a task force designed to review the instructional materials program, specifically the instructional materials adoption process. The task force met several times during the following months and finalized a report containing specific legislative recommendations in December 1996. The recommendations are incorporated into the bill.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill increases the Commissioner of Education's authority over the instructional materials adoption process.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, publishers of instructional materials must pay a cash deposit or bond, and are liable for inadequate materials. Additionally, students who damage materials must pay for them.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

ACADEMIC EXCELLENCE COUNCIL'S ADDITIONAL CONSIDERATIONS:

1. Does it improve instruction?

Yes, the bill modernizes definitions of instructional materials and streamlines procedures.

2. Does it allow teachers to teach?

Yes, by facilitating and modernizing available instructional materials.

3. Does it improve student character?

Yes, the bill makes students responsible for their instructional materials.

4. Does it prepare our students to be a part of the 21st century workforce?

Yes, see 1. and 2.

5. Does it empower parents to make decisions?

Yes, see 3.

6. Does it create educational options?

Yes, see 1. and 2.

7. Does it create an environment where students can learn?

Yes, see 1., 2., and 3.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 229.512, F.S., relating to the general powers and duties of the Commissioner of Education, authorizing the commissioner to prescribe procedures for evaluating instructional materials.

Section 2: Amends s. 233.07, F.S., relating to state instructional materials committees, removing the limitation on the maximum number of titles the commissioner may authorize, removing obsolete language regarding committee term limits, removing language regarding the calling of committee meetings, and requiring instructional materials to have intellectual content.

Section 3: Amends s. 233.09, F.S., relating to the duties of each state instructional materials committee, moving procedures for instructional materials for committees to follow when evaluating instructional materials from this section to s. 233.16, F.S., conforming language regarding the evaluating procedures, removing language relating to instructional materials recommended for math, science, and computer education, and removing language permitting school boards to use instructional materials failing to meet the requirements of the subsection under certain conditions.

Section 4: Amends s. 233.11, F.S., relating to contact with publishers, manufacturers, or their representatives, conforming language regarding instructional materials evaluation procedures.

Section 5: Amends s. 233.16, F.S., relating to the powers and duties of DOE in selecting and adopting instructional materials, inserting language removed from s. 233.09, F.S., relating to procedures for evaluating instructional materials, permitting a publisher or manufacturer to offer a cash deposit instead of a bond, and reducing the time in which DOE must keep a copy of a contract.

Section 6: Amends s. 233.17, F.S., relating to term of adoption for instructional materials, extending the term of adoption from six to eight years, except for specified core

subject areas which must be for a term not to exceed six years; and requiring DOE to annually publish an official schedule of subject areas each of the succeeding two years, and a tentative schedule for years three, four, five and six; and authorizing the commissioner to add more subject areas to the official schedule under extenuating circumstances.

- Section 7: Amends s. 233.18, F.S., relating to copies of bids, contracts, and books retained, requiring a publisher to make materials available to DOE upon request rather than the previous requirement that textbooks be kept available for inspection by the public.
- Section 8: Amends s. 233.25, F.S., relating to the duties, responsibilities, and requirements of publishers and manufacturers of instructional materials, requiring publishers to provide the actual instructional material for evaluation instead of written description, and removing obsolete language relating to outdated standards.
- Section 9: Amends s. 233.34, F.S., relating to the use of instructional materials allocation, providing a list of instructional materials, not on the state-adopted list, that may be purchased with flexibility funds. This list excludes the purchase of electronic or computer hardware.
- Section 10: Amends s. 233.46, F.S., relating to the duties of principals, permitting a principal to suspend a student from participation in extracurricular activities if the student fails to pay for lost or damaged instructional materials.
- Section 11: Amends s. 233.061, F.S., relating to required instruction, including the option to study the Federal Government, the state, and the counties, municipalities, school districts, and special districts, within the required course on civil government.
- Section 12: Provides an effective date of July 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Reduction in storage space for sample materials will save the state and school districts an indeterminate, but possibly significant, amount.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Reduction in storage space for sample materials will save the state and school districts an indeterminate, but possibly significant, amount.

With tougher penalties for the failure to return lost or damaged instructional materials, school districts may be able to recover more money.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Parents could incur attorney's fees and court costs if their children fail to pay for lost or damaged instructional material.

2. Direct Private Sector Benefits:

Indeterminate.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 1, 1997, PCS/HB 981 passed unanimously out of the Committee on Education K-12 and was made a committee substitute. The committee substitute differs from the proposed committee substitute in the following ways.

The committee substitute removes language in s. 229.152(15), F.S., relating to extenuating circumstances in which the commissioner may shorten the length of time that the criteria are available to the publishers. This language is reinserted in s. 233.17(3), F.S.

The committee substitute establishes specific core subject areas which can be used for a term not to exceed 6 years, and requires DOE to publish an official schedule of subject areas for adoption for each of the succeeding 2 years and a tentative schedule for years 3, 4, 5, and 6. The committee substitute provides extenuating circumstances in which the commissioner may add one or more subject areas to the official schedule; and allows the criteria for such additional subject area or areas may be provided to publishers less than 24 months prior to the date on which bids are due.

The committee substitute removes the requirement that the parent or legal guardian is responsible for reimbursement of any court costs or attorney's fees resulting from subsequent litigation relating to failure to pay for instructional materials.

The committee substitute provides that the study of the primary functions of, and interrelationships between, Federal Government, the state, and the counties, municipalities, school districts, and special districts of the state to be included in the elements of the civil government course be *permissive* rather than mandatory.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:

Legislative Research Director:

M. Elizabeth Atkins

Lynn Cobb