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LEGISLATIVE ACTION

Senate

House

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Floor: 1/AD/2R

04/29/2013 04:59 PM

Senator Montford moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (1) section 1006.28,
Florida Statutes, is amended to read:

1006.28 Duties of district school board, district school
superintendent; and school principal regarding K-12
instructional materials.—

(1) DISTRICT SCHOOL BOARD.—The district school board has
the duty to provide adequate instructional materials for all
students in accordance with the requirements of this part. The
term "adequate instructional materials" means a sufficient



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14 number of student or site licenses or sets of materials that are
15 available in bound, unbound, kit, or package form and may
16 consist of hardbacked or softbacked textbooks, electronic
17 content, consumables, learning laboratories, manipulatives,
18 electronic media, and computer courseware or software that serve
19 as the basis for instruction for each student in the core
20 courses of mathematics, language arts, social studies, science,
21 reading, and literature. The district school board has the
22 following specific duties:

23 (b) *Instructional materials.*—Provide for proper
24 requisitioning, distribution, accounting, storage, care, and use
25 of all instructional materials and furnish such other
26 instructional materials as may be needed. The district school
27 board shall ensure that instructional materials used in the
28 district are consistent with the district goals and objectives
29 and the course descriptions established in curriculum frameworks
30 ~~adopted by~~ rule of the State Board of Education, as well as with
31 the state and district performance standards provided for in s.
32 1001.03(1).

33 Section 2. Section 1006.283, Florida Statutes, is created
34 to read:

35 1006.283 District school board instructional materials
36 review process.—

37 (1) A school board or consortium of school districts may
38 implement an instructional materials program that includes the
39 review, approval, adoption, and purchase of instructional
40 materials. Beginning in the 2013-2014 school year, the district
41 school superintendent shall certify to the department by March
42 31 of each year that all instructional materials for core



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43 courses used by the district are aligned with applicable state
44 standards. Included in the certification shall be a list of the
45 core instructional materials that will be used or purchased for
46 use by the school district.

47 (2) The school board shall adopt rules implementing the
48 district's instructional materials program which must include,
49 but need not be limited to:

50 (a) Its review and purchase process.

51 (b) Identification of a review cycle for instructional
52 materials.

53 (c) The duties and qualifications of the instructional
54 materials reviewers.

55 (d) The requirements for an affidavit made by a district
56 instructional materials reviewer which substantially includes
57 the requirements of s. 1006.30.

58 (e) Compliance with s. 1006.32, relating to prohibited
59 acts.

60 (f) A process that certifies the accuracy of instructional
61 materials.

62 (g) The incorporation of applicable requirements of s.
63 1006.31, which relates to the duties of instructional material
64 reviewers.

65 (h) The incorporation of applicable requirements of s.
66 1006.38, relating to the duties, responsibilities, and
67 requirements of publishers of instructional materials.

68 (i) The process by which instructional materials will be
69 purchased, including advertising, bidding, and purchasing
70 requirements.

71 (3) (a) The school board may assess and collect fees from



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72 publishers participating in the instructional materials approval
73 process. The amount assessed and collected must be posted on the
74 school district's website and reported to the department. The
75 fees may not exceed the actual cost of the review process, and
76 the fees may not exceed \$3,500 per submission by a publisher.
77 Any fees collected for this process shall be allocated for the
78 support of the review process and maintained in a separate line
79 item for auditing purposes.

80 (b) The fees shall be used to cover the actual cost of
81 substitute teachers for each workday that a member of a school
82 district's instructional staff is absent from his or her
83 assigned duties for the purpose of rendering service as an
84 instructional materials reviewer. In addition, each reviewer may
85 be paid a stipend and is entitled to reimbursement for travel
86 expenses and per diem in accordance with s. 112.061 for actual
87 service in meetings.

88 (4) Instructional materials that have been reviewed by the
89 district instructional materials reviewers and approved must
90 have been determined to align with all applicable state
91 standards pursuant to s. 1003.41 and the requirements in s.
92 1006.31. The district school superintendent shall annually
93 certify to the department that all instructional materials for
94 core courses used by the district are aligned with all
95 applicable state standards.

96 (5) A publisher that offers instructional materials to a
97 district school board must provide such materials at a price
98 that, including all costs of electronic transmission, does not
99 exceed the lowest price at which the publisher offers such
100 instructional materials for approval or sale to any state or



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101 school district in the United States.

102 (6) A publisher shall reduce automatically the price of the
103 instructional materials to the district school board to the
104 extent that reductions in price are made elsewhere in the United
105 States.

106 Section 3. Section 1006.31, Florida Statutes, is amended to
107 read:

108 1006.31 Duties of the Department of Education and school
109 district ~~each state~~ instructional materials reviewer.—The duties
110 of the ~~each state~~ instructional materials reviewer are:

111 (1) PROCEDURES.—To adhere to procedures prescribed by the
112 department or the district for evaluating instructional
113 materials submitted by publishers and manufacturers in each
114 adoption. This section applies to both the state and district
115 approval processes.

116 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate
117 carefully all instructional materials submitted, in order to
118 ascertain which instructional materials, if any, submitted for
119 consideration implement the selection criteria developed by the
120 department and those curricular objectives included within
121 applicable performance standards provided for in s. 1001.03(1).

122 (a) When recommending instructional materials for use in
123 the schools, each reviewer shall include only instructional
124 materials that accurately portray the ethnic, socioeconomic,
125 cultural, and racial diversity of our society, including men and
126 women in professional, career, and executive roles, and the role
127 and contributions of the entrepreneur and labor in the total
128 development of this state and the United States.

129 (b) When recommending instructional materials for use in



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130 the schools, each reviewer shall include only materials that
131 accurately portray, whenever appropriate, humankind's place in
132 ecological systems, including the necessity for the protection
133 of our environment and conservation of our natural resources and
134 the effects on the human system of the use of tobacco, alcohol,
135 controlled substances, and other dangerous substances.

136 (c) When recommending instructional materials for use in
137 the schools, each reviewer shall require such materials as he or
138 she deems necessary and proper to encourage thrift, fire
139 prevention, and humane treatment of people and animals.

140 (d) When recommending instructional materials for use in
141 the schools, each reviewer shall require, when appropriate to
142 the comprehension of students, that materials for social
143 science, history, or civics classes contain the Declaration of
144 Independence and the Constitution of the United States. A
145 reviewer may not recommend any instructional materials for use
146 in the schools which contain any matter reflecting unfairly upon
147 persons because of their race, color, creed, national origin,
148 ancestry, gender, or occupation.

149 (e) Any instructional material recommended by each reviewer
150 for use in the schools shall be, to the satisfaction of each
151 reviewer, accurate, objective, and current and suited to the
152 needs and comprehension of students at their respective grade
153 levels. Reviewers shall consider for adoption materials
154 developed for academically talented students such as those
155 enrolled in advanced placement courses.

156 (3) REPORT OF REVIEWERS.— After a thorough study of all
157 data submitted on each instructional material, to submit an
158 electronic report to the department. The report shall be made



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159 public and must include responses to each section of the report
160 format prescribed by the department.

161 Section 4. Subsection (1) of section 1006.37, Florida
162 Statutes, is amended, and subsection (3) is added to that
163 section, to read:

164 1006.37 Requisition of instructional materials from
165 publisher's depository.-

166 (1) The district school superintendent shall requisition
167 adopted instructional materials from the depository of the
168 publisher with whom a contract has been made. However, the
169 superintendent shall requisition current instructional materials
170 to provide each student with a textbook or other materials as a
171 major tool of instruction in core courses of the subject areas
172 specified in s. 1006.40(2). These materials must be
173 requisitioned within the first 3 ~~2~~ years of the adoption cycle,
174 except for instructional materials related to growth of student
175 membership or instructional materials maintenance needs. The
176 superintendent may requisition instructional materials in the
177 core subject areas specified in s. 1006.40(2) that are related
178 to growth of student membership or instructional materials
179 maintenance needs during the 3rd, 4th, 5th, and 6th years of the
180 original contract period.

181 (3) A district school board or a consortium of school
182 districts which implements an instructional materials program
183 pursuant to s. 1006.283 is not required to requisition
184 instructional materials from the publisher's depository.

185 Section 5. Section 1006.38, Florida Statutes, is amended to
186 read:

187 1006.38 Duties, responsibilities, and requirements of



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188 instructional materials publishers and manufacturers.—This
189 section applies to both the state and district approval
190 processes. Publishers and manufacturers of instructional
191 materials, or their representatives, shall:

192 (1) Comply with all provisions of this part.

193 (2) Electronically deliver fully developed sample copies of
194 all instructional materials upon which bids are based to the
195 department pursuant to procedures adopted by the State Board of
196 Education.

197 (3) Submit, at a time designated in s. 1006.33, the
198 following information:

199 (a) Detailed specifications of the physical characteristics
200 of the instructional materials, including any software or
201 technological tools required for use by the district, school,
202 teachers, or students. The publisher or manufacturer shall
203 comply with these specifications if the instructional materials
204 are adopted and purchased in completed form.

205 (b) Evidence that the publisher or manufacturer has
206 provided materials that address the performance standards
207 provided for in s. 1001.03(1) and that can be accessed through
208 the district's local instructional improvement system and a
209 variety of electronic, digital, and mobile devices.

210 (c) Evidence that the instructional materials include
211 specific references to statewide standards in the teacher's
212 manual and incorporate such standards into chapter tests or the
213 assessments.

214 (4) Make available for purchase by any district school
215 board any diagnostic, criterion-referenced, or other tests that
216 they may develop.



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217 (5) Furnish the instructional materials offered by them at
218 a price in the state which, including all costs of electronic
219 transmission, may not exceed the lowest price at which they
220 offer such instructional materials for adoption or sale to any
221 state or school district in the United States.

222 (6) Reduce automatically the price of the instructional
223 materials to any district school board to the extent that
224 reductions are made elsewhere in the United States.

225 (7) Provide any instructional materials free of charge in
226 the state to the same extent as they are provided free of charge
227 to any state or school district in the United States.

228 (8) Guarantee that all copies of any instructional
229 materials sold in this state will be at least equal in quality
230 to the copies of such instructional materials that are sold
231 elsewhere in the United States and will be kept revised, free
232 from all errors, and up-to-date as may be required by the
233 department.

234 (9) Agree that any supplementary material developed at the
235 district or state level does not violate the author's or
236 publisher's copyright, provided such material is developed in
237 accordance with the doctrine of fair use.

238 (10) Not in any way, directly or indirectly, become
239 associated or connected with any combination in restraint of
240 trade in instructional materials, nor enter into any
241 understanding, agreement, or combination to control prices or
242 restrict competition in the sale of instructional materials for
243 use in the state.

244 (11) Maintain or contract with a depository in the state.

245 (12) For the core subject areas specified in s. 1006.40(2),



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246 maintain in the depository for the first 3 ~~2~~ years of the
247 contract an inventory of instructional materials sufficient to
248 receive and fill orders.

249 (13) For the core subject areas specified in s. 1006.40(2),
250 ensure the availability of an inventory sufficient to receive
251 and fill orders for instructional materials for growth,
252 including the opening of a new school, and replacement during
253 the 3rd and subsequent years of the original contract period.

254 (14) Accurately and fully disclose only the names of those
255 persons who actually authored the instructional materials. In
256 addition to the penalties provided in subsection (16), the
257 commissioner may remove from the list of state-adopted
258 instructional materials those instructional materials whose
259 publisher or manufacturer misleads the purchaser by falsely
260 representing genuine authorship.

261 (15) Grant, without prior written request, for any
262 copyright held by the publisher or its agencies automatic
263 permission to the department or its agencies for the
264 reproduction of instructional materials and supplementary
265 materials in Braille, large print, or other appropriate format
266 for use by visually impaired students or other students with
267 disabilities that would benefit from use of the materials.

268 (16) Upon the willful failure of the publisher or
269 manufacturer to comply with the requirements of this section, be
270 liable to the department in the amount of three times the total
271 sum which the publisher or manufacturer was paid in excess of
272 the price required under subsections (5) and (6) and in the
273 amount of three times the total value of the instructional
274 materials and services which the district school board is



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275 entitled to receive free of charge under subsection (7).

276 Section 6. Subsection (2) and paragraph (a) of subsection
277 (3) of section 1006.40, Florida Statutes, are amended to read:

278 1006.40 Use of instructional materials allocation;
279 instructional materials, library books, and reference books;
280 repair of books.-

281 (2) Each district school board must purchase current
282 instructional materials to provide each student with a major
283 tool of instruction in core courses of the subject areas of
284 mathematics, language arts, science, social studies, reading,
285 and literature for kindergarten through grade 12. Such purchase
286 must be made within the first 3 ~~2~~ years after the effective date
287 of the adoption cycle. For the 2012-2013 mathematics adoption, a
288 district using a comprehensive mathematics instructional
289 materials program adopted in the 2009-2010 adoption shall be
290 deemed in compliance with this subsection if it provides each
291 student with such additional state-adopted materials as may be
292 necessary to align the previously adopted comprehensive program
293 to common core standards and the other criteria of the 2012-2013
294 mathematics adoption.

295 (3) (a) By the 2015-2016 fiscal year, each district school
296 board shall use at least 50 percent of the annual allocation for
297 the purchase of digital or electronic instructional materials
298 that align with state standards included on the state-adopted
299 list, except as otherwise authorized in paragraphs (b) and (c).
300 This subsection does not apply to a district school board or a
301 consortium of school districts which implements an instructional
302 materials program pursuant to s. 1006.283, except that by the
303 2015-2016 fiscal year, each district school board shall use at



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304 least 50 percent of the annual allocation for the purchase of
305 digital or electronic instructional materials that align with
306 state standards.

307 Section 7. Paragraphs (o) and (p) of subsection (6) of
308 section 1001.10, Florida Statutes, are amended to read:

309 1001.10 Commissioner of Education; general powers and
310 duties.—

311 (6) Additionally, the commissioner has the following
312 general powers and duties:

313 (o) To develop criteria for use by department ~~state~~
314 instructional materials reviewers in evaluating materials
315 submitted for adoption consideration. The criteria shall, as
316 appropriate, be based on instructional expectations reflected in
317 course descriptions ~~curriculum frameworks~~ and student
318 performance standards. The criteria for each subject or course
319 shall be made available to publishers and manufacturers of
320 instructional materials pursuant to the requirements of chapter
321 1006.

322 (p) To prescribe procedures for evaluating instructional
323 materials submitted by publishers and manufacturers in each
324 adoption.

325 Section 8. Paragraph (b) of subsection (6) of section
326 1011.62, Florida Statutes, is amended to read:

327 1011.62 Funds for operation of schools.—If the annual
328 allocation from the Florida Education Finance Program to each
329 district for operation of schools is not determined in the
330 annual appropriations act or the substantive bill implementing
331 the annual appropriations act, it shall be determined as
332 follows:



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333 (6) CATEGORICAL FUNDS.—

334 (b) If a district school board finds and declares in a
335 resolution adopted at a regular meeting of the school board that
336 the funds received for any of the following categorical
337 appropriations are urgently needed to maintain school board
338 specified academic classroom instruction, the school board may
339 consider and approve an amendment to the school district
340 operating budget transferring the identified amount of the
341 categorical funds to the appropriate account for expenditure:

342 1. Funds for student transportation.

343 2. Funds for safe schools.

344 3. Funds for supplemental academic instruction if the
345 required additional hour of instruction beyond the normal school
346 day for each day of the entire school year has been provided for
347 the students in each low-performing elementary school in the
348 district pursuant to paragraph (1) (f).

349 4. Funds for research-based reading instruction if the
350 required additional hour of instruction beyond the normal school
351 day for each day of the entire school year has been provided for
352 the students in each low-performing elementary school in the
353 district pursuant to paragraph (9) (a).

354 5. Funds for instructional materials if all instructional
355 material purchases necessary to provide updated materials that
356 are aligned with applicable to Next Generation Sunshine state
357 standards and course descriptions ~~benchmarks~~ and that meet
358 statutory requirements of content and learning have been
359 completed for that fiscal year, but no sooner than March 1.
360 Funds available after March 1 may be used to purchase hardware
361 for student instruction.



362 Section 9. This act shall take effect July 1, 2013.

363

364 ===== T I T L E A M E N D M E N T =====

365 And the title is amended as follows:

366 Delete everything before the enacting clause

367 and insert:

368 A bill to be entitled

369 An act relating to instructional materials for K-12
370 public education; amending s. 1006.28, F.S.; revising
371 the duties of a district school board with regard to
372 instructional materials; creating s. 1006.283, F.S.;
373 authorizing a district school board or a consortium of
374 school districts to implement an instructional
375 materials program; requiring the district
376 superintendent to certify to the Department of
377 Education that instructional materials for core
378 courses align with applicable state standards;
379 requiring the district school board to adopt rules;
380 authorizing the district school board to assess and
381 collect fees from a publisher that participates in the
382 instructional materials review process; requiring the
383 fee amount to be posted on the school district's
384 website and reported to the department; providing a
385 limit on fees; providing for a stipend, reimbursement
386 for travel expenses, and per diem for reviewers;
387 requiring instructional materials that are approved by
388 the district instructional materials reviewers to be
389 aligned with applicable state standards; requiring
390 each district school superintendent to annually



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391 certify that the instructional materials for core
392 courses used by the district align with applicable
393 state standards; providing pricing requirements for
394 instructional materials; amending s. 1006.31, F.S.;
395 revising the procedure for evaluating instructional
396 materials; amending s. 1006.37, F.S.; revising the
397 time period in which the superintendent must
398 requisition instructional materials; providing that a
399 district school board or a consortium of school
400 districts which implements an instructional materials
401 program is not required to requisition instructional
402 materials from the publisher's depository; amending s.
403 1006.38, F.S.; providing for applicability; revising
404 duties of publishers and manufacturers; amending s.
405 1006.40, F.S.; revising the allocation for
406 instructional materials; providing for applicability;
407 amending s. 1001.10, F.S.; revising the duties of the
408 Commissioner of Education with regard to instructional
409 materials; amending s. 1011.62, F.S.; conforming
410 provisions to changes made by the act; providing an
411 effective date.