



453304

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/RM	.	Floor: SEN1/C
05/02/2013 04:08 PM	.	05/03/2013 02:18 PM
	.	

Senator Montford moved the following:

1 **Senate Amendment to House Amendment (336735) (with title**
2 **amendment)**

3
4 Delete lines 5 - 956
5 and insert:

6 Section 1. Paragraph (b) of subsection (1) of section
7 1006.28, Florida Statutes, is amended to read:

8 1006.28 Duties of district school board, district school
9 superintendent; and school principal regarding K-12
10 instructional materials.—

11 (1) DISTRICT SCHOOL BOARD.—The district school board has
12 the duty to provide adequate instructional materials for all
13 students in accordance with the requirements of this part. The



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

24 (b) *Instructional materials.*—Provide for proper
25 requisitioning, distribution, accounting, storage, care, and use
26 of all instructional materials and furnish such other
27 instructional materials as may be needed. The district school
28 board shall ensure that instructional materials used in the
29 district are consistent with the district goals and objectives
30 and the course descriptions established in ~~curriculum frameworks~~
31 adopted by rule of the State Board of Education, as well as with
32 the state and district performance standards provided for in s.
33 1001.03(1).

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

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

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



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43 31 of each year that all instructional materials for core
44 courses used by the district are aligned with applicable state
45 standards. Included in the certification shall be a list of the
46 core instructional materials that will be used or purchased for
47 use by the school district.

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

51 (a) Its review and purchase process.

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

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

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

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

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

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

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

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



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

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

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

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



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101 instructional materials for approval or sale to any state or
102 school district in the United States.

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

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

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

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

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

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



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

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

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

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

157 (3) REPORT OF REVIEWERS.— After a thorough study of all
158 data submitted on each instructional material, to submit an



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159 electronic report to the department. The report shall be made
160 public and must include responses to each section of the report
161 format prescribed by the department.

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

165 1006.37 Requisition of instructional materials from
166 publisher's depository.—

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

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

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



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188 1006.38 Duties, responsibilities, and requirements of
189 instructional materials publishers and manufacturers.—This
190 section applies to both the state and district approval
191 processes. Publishers and manufacturers of instructional
192 materials, or their representatives, shall:

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

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

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

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

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

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

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



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217 they may develop.

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

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

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

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

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

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

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



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246 (12) For the core subject areas specified in s. 1006.40(2),
247 maintain in the depository for the first 3 ~~2~~ years of the
248 contract an inventory of instructional materials sufficient to
249 receive and fill orders.

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

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

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

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



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275 materials and services which the district school board is
276 entitled to receive free of charge under subsection (7).

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

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

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

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



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304 2015-2016 fiscal year, each district school board shall use at
305 least 50 percent of the annual allocation for the purchase of
306 digital or electronic instructional materials that align with
307 state standards.

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

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

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

314 (o) To develop criteria for use by department state
315 instructional materials reviewers in evaluating materials
316 submitted for adoption consideration. The criteria shall, as
317 appropriate, be based on instructional expectations reflected in
318 course descriptions ~~curriculum frameworks~~ and student
319 performance standards. The criteria for each subject or course
320 shall be made available to publishers and manufacturers of
321 instructional materials pursuant to the requirements of chapter
322 1006.

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

326 Section 8. Paragraph (b) of subsection (6) of section
327 1011.62, Florida Statutes, is amended to read:

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



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333 follows:

334 (6) CATEGORICAL FUNDS.—

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

343 1. Funds for student transportation.

344 2. Funds for safe schools.

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

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

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



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362 for student instruction.

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 lines 964 - 1049

367 and insert:

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



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