

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1388

INTRODUCER: Education Committee and Senator Montford

SUBJECT: Instructional Materials for K-12 Public Education

DATE: April 21, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Fav/CS
2.	Armstrong	Elwell	AED	Fav/CS
3.	Elwell	Hansen	AP	Pre-meeting
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1388 increases flexibility for a school district while requiring instructional materials to align with state standards. The bill authorizes a school district to review, adopt and purchase instructional materials, while it concurrently retains and strengthens the DOE statewide instructional materials adoption process.

The bill establishes a local instructional materials review process that will have a cost; however, the cost may be mitigated or offset with a fee assessed to publishers. In addition, for the state process, the bill provides for reimbursement of certain expenses of reviewers; however, because these costs are either nil or reimbursement is permissive, there is no requirement for a state appropriation.

The bill takes effect July 1, 2013.

The bill substantially amends sections 1006.29, 1006.37, and 1006.40, Florida Statutes.

The bill creates section 1006.283, Florida Statutes

II. Present Situation:

School Districts

A school district must provide adequate instructional materials for its students, ensure the materials are consistent with the district's educational goals, and ensure the materials meet the objectives and the curriculum frameworks adopted by the State Board of Education (SBE).¹

The district is required to purchase current instructional materials in the core areas to provide students with current tools of instruction.² This purchase must be made within the first two years of the effective date of the adoption cycle.³ Up to fifty percent of the allocation may be used to purchase non-adopted materials.⁴

Superintendents must, at the Department of Education's (DOE) request, provide an experienced classroom teacher or district-level content supervisor with expertise in the content area to review submissions recommended for adoption by the state instructional materials reviewers.⁵

The Commissioner of Education

The Commissioner of Education (Commissioner) establishes the number of items to be adopted by the state.⁶ The Commissioner appoints three state instructional materials reviewers to review instructional materials and evaluate the content for alignment with the applicable standards.⁷ An evaluation by the third reviewer will only be required for situations in which the first two reviewers disagree as to whether materials should be placed on the state-adopted materials list.⁸

The Commissioner has the authority to select and adopt instructional materials for each grade and subject area and to contract with publishers for the instructional materials adopted.⁹ The term of the adoption is five years.¹⁰

State Instructional Materials Reviewers and Content

Reviewers must evaluate all materials submitted by publishers in each adoption to determine if the material aligns with the applicable state standards, developed criteria, and any applicable performance standards.¹¹

In addition to the standards, materials should also reflect appropriate diversity, include the Constitution and the Declaration of Independence in the social studies content area, and ensure

¹ ss. 1006.28(1) and 1001.03(1), F.S.

² s. 1006.40(2), F.S.

³ *Id.*

⁴ s. 1006.40(3)(b), F.S.

⁵ s. 1006.29(1), F.S.

⁶ s. 1006.35(3), F.S.

⁷ s. 1006.29(1)(b), F.S.

⁸ s. 1006.29(3), F.S.

⁹ s. 1006.34(2), F.S.

¹⁰ s. 1006.36(1), F.S.

¹¹ s. 1006.31(2)(e), F.S.

that materials do not reflect unfairly upon people because of their race, color, creed, national origin, ancestry, gender, or occupation.¹² Reviewers must report to the DOE the materials being recommended that meet the guidelines for adoption.¹³

Publishers

Publishers of instructional materials must, in part:

- Submit detailed specifications of the physical characteristics of the instructional materials;
- Provide evidence that the materials address the performance standards;
- Furnish the instructional materials at a price which matches the lowest price offered anywhere else in the United States;
- Guarantee that any instructional materials sold in Florida will be equal in quality to the instructional materials sold elsewhere in the United States and will be kept up-to-date; and
- Maintain or contract with a depository in the state and keep an inventory.¹⁴

III. Effect of Proposed Changes:

The bill increases flexibility for a school district while requiring instructional materials to align with state standards. The bill authorizes a school district to review, adopt and purchase instructional materials, while it concurrently retains and strengthens the DOE statewide instructional materials adoption process.

District School Board Instructional Materials Program

The bill creates the district school board instructional materials program. The program allows a district school board to choose to be responsible for reviewing, adopting, and purchasing a publisher's instructional materials. The school district would be able to set and collect fees, not to exceed fees assessed by the Department of Education (DOE), from publishers that participate in the instructional materials approval process. The school district would adopt rules to implement the program.

A publisher would provide materials to the school district with most-favored-nations pricing, with automatic reductions, based on materials sold to any other state or school district.

If electing to participate in the program, the school district would notify DOE and provide an annual report to the legislature, and the superintendent would annually certify to the DOE that all core instructional materials are aligned with applicable state standards.

State Instructional Review

The bill would increase the number of state instructional material reviewers appointed by the Commissioner, from 3 to up to 5. One of the reviewers would be a layperson, one person would be a supervisor of teachers and at least 50% would be classroom teachers certified in an area

¹² s. 1006.31(2)(d), F.S.

¹³ s. 1006.31(3), F.S.

¹⁴ s. 1006.38, F.S.

directly related to the area or level being considered for approval. The reviewers would have the capacity or expertise to address the broad, racial, ethnic, socioeconomic, and cultural diversity of the state's student population. The DOE could contract with a nonprofit organization or association to administer the review process. The DOE would publish on its website a list of all instructional materials that are approved by the DOE or that are approved by another state, if such materials align with applicable state standards.

A district school board would be reimbursed for the cost of a substitute teacher for each workday an employee is acting as a state reviewer. Additionally, each reviewer would receive a travel and per diem stipend in accordance with section 112.061, F.S.

The definition of "instructional materials" would be modified to be materials that serve as a "tool," as opposed to a "major tool," for assisting in the instruction of a subject or course.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1388 authorizes school districts to set and collect fees from publishers that participate in the instructional materials approval process.

C. Government Sector Impact:

CS/SB 1388 authorizes school districts to charge publishers that participate in the instructional materials process a fee. The bill does not indicate the purpose of the fee, but if it is to be used support the review and adoption process, then it may offset the costs.

For the state adoption process, the bill requires reimbursement for any district instructional staff person who serves as an instructional materials reviewer for the district cost of a substitute teacher and the reviewer's travel and per diem. Because the process is on-line, there is no actual cost required to be reimbursed.

In addition, the bill authorizes, but does not require, a stipend to be paid to a reviewer. An estimate of this cost is as much as \$750,000 annually based on a \$500 stipend for each of the five reviewers for roughly 300 content area submissions that are provided for review. However, the bill is permissive regarding the stipend and would not require an appropriation or the agency to provide funds for this purpose.

The bill also authorizes, but does not require, the DOE to contract with an organization to administer the review process. The cost of such a contract would be dependent on the scope and the agreed-to price for services. This provision is also permissive so that an appropriation is not required.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on April 1, 2013:

CS/SB 1388 differs from SB 1388 in that it:

- Requires a district school board to adopt rules implementing an instructional materials review program, as opposed to identifying specific requirements in law.
- Reinstates statewide adoption of instructional materials by DOE, as opposed to a process by which a school district or publisher may refer review of instructional materials to the DOE.
- Changes the definition of “instructional materials” to include materials that serve as a “tool” that assists, as opposed to simply assisting in the instruction of a subject or course.
- Deletes the prohibition of a school district assessing a fee to review materials that were previously evaluated by the state, but caps the fees a district may collect to be no more than assessed by the state.
- Removes proposed amendments to ss. 1001.10, 1003.55, 1003.621, 1006.28, 1006.30, 1006.31, 1006.32, 1006.34, 1006.35, 1006.36, 1006.38, and 1011.62, F.S.
- Deletes the proposed repeal of ss. 1006.282, 1006.33, 1006.37, and 1010.82, F.S.

B. Amendments:

None.