

By Senator Montford

3-00662-13

20131388

1 A bill to be entitled
2 An act relating to instructional materials for K-12
3 public education; amending s. 1006.28, F.S.; providing
4 district school board duties relating to the
5 collection of fees from publishers or manufacturers
6 and procedures for reviewing and approving
7 instructional materials; defining the term
8 "instructional materials" for purposes of review;
9 repealing s. 1006.282, F.S., relating to a pilot
10 program for the transition to electronic and digital
11 instructional materials; amending s. 1006.29, F.S.;
12 providing for Department of Education instructional
13 materials reviewers; providing procedures for
14 department review and approval of instructional
15 materials; authorizing the department to compensate
16 reviewers; deleting provisions relating to adoption of
17 instructional materials; requiring the department to
18 publicize adopted instructional materials; amending s.
19 1006.30, F.S., relating to an affidavit made by
20 instructional materials reviewers, to conform;
21 amending s. 1006.31, F.S.; providing duties of
22 department and school district instructional materials
23 reviewers; requiring a reviewer to use specified
24 standards to determine the propriety of an
25 instructional material; amending s. 1006.32, F.S.;
26 providing prohibited acts for department and district
27 instructional materials reviewers; repealing s.
28 1006.33, F.S., relating to bids or proposals by
29 publishers or manufacturers; amending s. 1006.34,

3-00662-13

20131388

30 F.S.; providing duties of the State Board of Education
31 relating to evaluating instructional materials;
32 authorizing the collection of fees from publishers or
33 manufacturers; deleting provisions relating to
34 selection and adoption of instructional materials and
35 publisher or manufacturer contracts, bonds, and
36 deposits; amending s. 1006.35, F.S., relating to the
37 accuracy of instructional materials, to conform;
38 amending s. 1006.36, F.S.; providing for a state
39 review cycle and schedule; repealing s. 1006.37, F.S.,
40 relating to the requisition of instructional materials
41 from a publisher's depository; amending s. 1006.38,
42 F.S.; revising duties of publishers and manufacturers;
43 amending s. 1006.40, F.S.; revising provisions
44 relating to the use of the instructional materials
45 allocation by district school boards; amending ss.
46 1001.10, 1003.55, 1003.621, and 1011.62, F.S.;
47 conforming provisions; repealing s. 1010.82, F.S.,
48 relating to the Textbook Bid Trust Fund; providing an
49 effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Paragraph (b) of subsection (1) and subsection
54 (2) of section 1006.28, Florida Statutes, are amended to read:
55 1006.28 Duties of district school board, district school
56 superintendent; and school principal regarding K-12
57 instructional materials.—

58 (1) DISTRICT SCHOOL BOARD.—The district school board has

3-00662-13

20131388

59 the duty to provide adequate instructional materials for all
60 students in accordance with the requirements of this part. The
61 term "adequate instructional materials" means a sufficient
62 number of student or site licenses or sets of materials that are
63 available in bound, unbound, kit, or package form and may
64 consist of hardbacked or softbacked textbooks, electronic
65 content, consumables, learning laboratories, manipulatives,
66 electronic media, and computer courseware or software that serve
67 as the basis for instruction for each student in the core
68 courses of mathematics, language arts, social studies, science,
69 reading, and literature. The district school board has the
70 following specific duties:

71 (b) *Instructional materials.*—

72 1. Provide for proper requisitioning, distribution,
73 accounting, storage, care, and use of all instructional
74 materials and furnish such other instructional materials as may
75 be needed. The district school board shall ensure that
76 instructional materials used in the district are consistent with
77 the district goals and objectives and the course descriptions
78 established in curriculum frameworks adopted by rule of the
79 State Board of Education, as well as with the state and district
80 performance standards provided for in s. 1001.03(1). The
81 district school board may set and collect fees from publishers
82 or manufacturers participating in the instructional materials
83 approval process. However, a district school board may not
84 assess a fee to review materials that have been evaluated
85 previously by the state.

86 2. Adopt rules prescribing the procedures by which district
87 personnel shall evaluate instructional materials submitted by

3-00662-13

20131388

88 publishers or manufacturers in each approval cycle.

89 3. Determine if the district will be responsible for
90 reviewing instructional materials submitted by a publisher or
91 manufacturer or if the district will refer submitted materials
92 to the department for review.

93 4. If the district is responsible for reviewing submitted
94 materials, designate district staff who are experts in the
95 content areas submitted for approval to review submitted
96 instructional materials to ensure the content aligns with the
97 applicable state standards. The reviewers shall be designated as
98 district instructional materials reviewers and shall review the
99 materials for the level of instructional support and the
100 accuracy and appropriateness of progression of introduced
101 content. Instructional materials shall be made electronically
102 available to the reviewers. The reviewers shall make
103 recommendations to the district school board regarding materials
104 that should be considered for use in schools. For purposes of
105 reviewing materials, the term "instructional materials" means
106 items having intellectual content that by design assist in the
107 instruction of a subject or course. These items may be available
108 in bound, unbound, kit, or package form and may consist of
109 hardbacked or softbacked textbooks, electronic content,
110 consumables, learning laboratories, manipulatives, electronic
111 media, and computer courseware or software. A publisher or
112 manufacturer providing instructional materials as a single
113 bundle shall also make the instructional materials available as
114 separate and unbundled items, each priced individually. A
115 publisher or manufacturer must also offer sections of
116 instructional materials in digital or electronic versions at

3-00662-13

20131388

117 reduced rates to districts, schools, and teachers.

118 5. Approve instructional materials that have been reviewed
119 by district or department instructional materials reviewers and
120 have been determined to align with all applicable state
121 standards pursuant to s. 1003.41 and the requirements in s.
122 1006.31.

123 6. Certify to the department that all core instructional
124 materials have been approved pursuant to subparagraph 5.

125 (2) DISTRICT SCHOOL SUPERINTENDENT.—

126 ~~(a)~~ The district school superintendent has the duty to
127 recommend such plans for improving, providing, distributing,
128 accounting for, and caring for instructional materials and other
129 instructional aids as will result in general improvement of the
130 district school system, as prescribed in this part, in
131 accordance with adopted district school board rules prescribing
132 the duties and responsibilities of the district school
133 superintendent regarding the requisition, purchase, receipt,
134 storage, distribution, use, conservation, records, and reports
135 of, and management practices and property accountability
136 concerning, instructional materials, and providing for an
137 evaluation of any instructional materials to be requisitioned
138 that have not been used previously in the district's schools.
139 The district school superintendent must keep adequate records
140 and accounts for all financial transactions for funds collected
141 pursuant to subsection (3), as a component of the educational
142 service delivery scope in a school district best financial
143 management practices review under s. 1008.35.

144 ~~(b) Each district school superintendent shall notify the~~
145 ~~department by April 1 of each year the state adopted~~

3-00662-13

20131388

146 ~~instructional materials that will be requisitioned for use in~~
147 ~~his or her school district. The notification shall include a~~
148 ~~district school board plan for instructional materials use to~~
149 ~~assist in determining if adequate instructional materials have~~
150 ~~been requisitioned.~~

151 Section 2. Section 1006.282, Florida Statutes, is repealed.

152 Section 3. Section 1006.29, Florida Statutes, is amended to
153 read:

154 1006.29 Department of Education ~~State~~ instructional
155 materials reviewers.-

156 (1) (a) The commissioner shall determine annually the areas
157 in which instructional materials shall be submitted for approval
158 ~~adoption~~, taking into consideration the desires of the district
159 school boards. ~~The commissioner shall also determine the number~~
160 ~~of titles to be adopted in each area.~~

161 (b) ~~By April 15 of each school year,~~ The department
162 ~~commissioner shall,~~ appoint three state or national experts in
163 the content areas submitted by a publisher, manufacturer, or
164 district school board for approval, ~~adoption to~~ review the
165 instructional materials and evaluate the content for alignment
166 with the applicable ~~Next Generation Sunshine~~ state standards.
167 ~~These reviewers shall be designated as state instructional~~
168 ~~materials reviewers and shall review~~ The materials shall be
169 evaluated for the level of instructional support and the
170 accuracy and appropriateness of progression of introduced
171 content. Instructional materials shall be made electronically
172 available to the reviewers. ~~The initial review of the materials~~
173 ~~shall be made by only two of the three reviewers. If the two~~
174 ~~reviewers reach different results, the third reviewer shall~~

3-00662-13

20131388

175 ~~break the tie. The reviewers shall independently make~~
176 ~~recommendations to the commissioner regarding materials that~~
177 ~~should be placed on the list of adopted materials through an~~
178 ~~electronic feedback review system.~~

179 (c) The department may compensate assigned reviewers with
180 funds collected through fees authorized in accordance with s.
181 1006.34(2). The commissioner shall request each district school
182 superintendent to nominate one classroom teacher or district-
183 level content supervisor to review two or three of the
184 submissions recommended by the department ~~state~~ instructional
185 materials reviewers. School districts shall ensure that these
186 district reviewers are provided with the support and time
187 necessary to accomplish a thorough review of the instructional
188 materials. District reviewers shall independently rate the
189 recommended submissions on the instructional usability of the
190 resources.

191 (2) For purposes of approving materials ~~state adoption~~, the
192 term "instructional materials" means items having intellectual
193 content that by design assist ~~serve as a major tool for~~
194 ~~assisting~~ in the instruction of a subject or course. These items
195 may be available in bound, unbound, kit, or package form and may
196 consist of hardbacked or softbacked textbooks, electronic
197 content, consumables, learning laboratories, manipulatives,
198 electronic media, and computer courseware or software. A
199 publisher or manufacturer providing instructional materials as a
200 single bundle shall also make the instructional materials
201 available as separate and unbundled items, each priced
202 individually. A publisher or manufacturer shall ~~may~~ also offer
203 sections of ~~state-adopted~~ instructional materials in digital or

3-00662-13

20131388

204 electronic versions at reduced rates to districts, schools, and
205 teachers.

206 (3) Beginning in the 2015-2016 academic year, all approved
207 ~~adopted~~ instructional materials for students in kindergarten
208 through grade 12 must be provided in an electronic or digital
209 format. For purposes of this section, the term:

210 (a) "Electronic format" means text-based or image-based
211 content in a form that is produced on, published by, and
212 readable on computers or other digital devices and is an
213 electronic version of a printed book, whether or not any printed
214 equivalent exists.

215 (b) "Digital format" means text-based or image-based
216 content in a form that provides the student with various
217 interactive functions; that can be searched, tagged,
218 distributed, and used for individualized and group learning;
219 that includes multimedia content such as video clips,
220 animations, and virtual reality; and that has the ability to be
221 accessed at any time and anywhere.

222
223 The terms do not include electronic or computer hardware even if
224 such hardware is bundled with software or other electronic
225 media, nor does it include equipment or supplies.

226 (4) The department shall develop a training program for
227 persons selected to review submitted ~~as state~~ instructional
228 materials ~~reviewers and school district reviewers~~. The program
229 shall be structured to assist reviewers in developing the skills
230 necessary to make valid, culturally sensitive, and objective
231 decisions regarding the content and rigor of instructional
232 materials. All persons reviewing ~~serving as~~ instructional

3-00662-13

20131388

233 materials ~~reviewers~~ must complete the training program prior to
234 beginning the review and selection process.

235 (5) The department shall post on its website a list of
236 department-approved instructional materials, district-approved
237 instructional materials, and instructional materials approved by
238 other states that align with applicable state standards.

239 Section 4. Section 1006.30, Florida Statutes, is amended to
240 read:

241 1006.30 Affidavit of Department of Education ~~state~~
242 instructional materials reviewers.—Before transacting any
243 business, each department ~~state~~ instructional materials reviewer
244 shall make an affidavit, to be filed with the department, that:

245 (1) The reviewer will faithfully discharge the duties
246 imposed upon him or her.

247 (2) The reviewer has no interest in any publishing or
248 manufacturing organization that produces or sells instructional
249 materials.

250 (3) The reviewer is in no way connected with the
251 distribution of the instructional materials.

252 (4) The reviewer does not have any direct or indirect
253 pecuniary interest in the business or profits of any person
254 engaged in manufacturing, publishing, or selling instructional
255 materials designed for use in the public schools.

256 (5) The reviewer will not accept any emolument or promise
257 of future reward of any kind from any publisher or manufacturer
258 of instructional materials or his or her agent or anyone
259 interested in, or intending to bias his or her judgment in any
260 way in, the selection of any materials to be approved ~~adopted~~.

261 (6) The reviewer understands that it is unlawful to discuss

3-00662-13

20131388

262 matters relating to instructional materials submitted for
263 approval ~~adoption~~ with any agent of a publisher or manufacturer
264 of instructional materials, either directly or indirectly,
265 except during the period when the publisher or manufacturer is
266 providing a presentation for the reviewer during his or her
267 review of the instructional materials submitted for approval
268 ~~adoption~~.

269 Section 5. Section 1006.31, Florida Statutes, is amended to
270 read:

271 1006.31 Duties of the Department of Education and school
272 district ~~each state~~ instructional materials reviewer.—The duties
273 of the ~~each state~~ instructional materials reviewer are:

274 (1) PROCEDURES.—To adhere to procedures prescribed by the
275 department or the district for evaluating instructional
276 materials submitted by publishers and manufacturers in each
277 review for approval ~~adoption~~.

278 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate
279 carefully all instructional materials submitted, in order to
280 ascertain which instructional materials, if any, submitted for
281 consideration implement the selection criteria developed by the
282 department or the district and those curricular objectives
283 included within applicable performance standards provided for in
284 s. 1001.03(1).

285 (a) When evaluating ~~recommending~~ instructional materials
286 for use in the schools, each reviewer should ensure that the
287 ~~shall include only~~ instructional materials ~~that~~ accurately
288 portray the ethnic, socioeconomic, cultural, and racial
289 diversity of our society, including men and women in
290 professional, career, and executive roles, and the role and

3-00662-13

20131388

291 contributions of the entrepreneur and labor in the total
292 development of this state and the United States.

293 (b) When evaluating ~~recommending~~ instructional materials
294 for use in the schools, each reviewer should ensure that the
295 ~~shall include only~~ materials ~~that~~ accurately portray, whenever
296 appropriate, humankind's place in ecological systems, including
297 the necessity for the protection of our environment and
298 conservation of our natural resources and the effects on the
299 human system of the use of tobacco, alcohol, controlled
300 substances, and other dangerous substances.

301 (c) When evaluating ~~recommending~~ instructional materials
302 for use in the schools, each reviewer should ensure that the
303 materials ~~shall require such materials as he or she deems~~
304 ~~necessary and proper to~~ encourage thrift, fire prevention, and
305 humane treatment of people and animals.

306 (d) When evaluating ~~recommending~~ instructional materials
307 for use in the schools, each reviewer should ensure ~~shall~~
308 ~~require~~, when appropriate to the comprehension of students, that
309 materials for social science, history, or civics classes contain
310 the Declaration of Independence and the Constitution of the
311 United States. A reviewer may not recommend any instructional
312 materials for use in the schools which contain any matter
313 reflecting unfairly upon persons because of their race, color,
314 creed, national origin, ancestry, gender, or occupation.

315 (e) When evaluating instructional materials, library media,
316 and other reading material for use in the schools, each reviewer
317 shall use the following standards to determine the propriety of
318 the material:

319 1. The age of students who normally could be expected to

3-00662-13

20131388

320 have access to the material.

321 2. The educational purpose to be served by the material. In
322 considering instructional materials for classroom use, priority
323 shall be given to the selection of materials that encompass the
324 state and district school board performance standards provided
325 for in s. 1001.03(1) and that include the instructional
326 objectives contained within the course descriptions established
327 in rule by the State Board of Education.

328 3. The degree to which the material would be supplemented
329 and explained by mature classroom instruction as part of a
330 normal classroom instructional program.

331 4. The degree to which the material represents the broad
332 racial, ethnic, socioeconomic, and cultural diversity of
333 students in the state.

334
335 Any instructional material containing pornography or otherwise
336 prohibited by s. 847.012 may not be used or made available
337 within any public school.

338 ~~(e) Any instructional material recommended by each reviewer~~
339 ~~for use in the schools shall be, to the satisfaction of each~~
340 ~~reviewer, accurate, objective, and current and suited to the~~
341 ~~needs and comprehension of students at their respective grade~~
342 ~~levels. Reviewers shall consider for adoption materials~~
343 ~~developed for academically talented students such as those~~
344 ~~enrolled in advanced placement courses.~~

345 ~~(3) REPORT OF REVIEWERS.— After a thorough study of all~~
346 ~~data submitted on each instructional material, to submit an~~
347 ~~electronic report to the department. The report shall be made~~
348 ~~public and must include responses to each section of the report~~

3-00662-13

20131388__

349 ~~format prescribed by the department.~~

350 Section 6. Section 1006.32, Florida Statutes, is amended to
351 read:

352 1006.32 Prohibited acts.—

353 (1) A publisher or manufacturer of instructional material,
354 or any representative thereof, may not offer to give any
355 emolument, money, or other valuable thing, or any inducement, to
356 any district school board official or department or district
357 ~~state~~ instructional materials reviewer to directly or indirectly
358 introduce, recommend, vote for, or otherwise influence the
359 approval ~~adoption~~ or purchase of any instructional materials.

360 (2) A district school board official or a department or
361 district ~~state~~ instructional materials reviewer may not solicit
362 or accept any emolument, money, or other valuable thing, or any
363 inducement, to directly or indirectly introduce, recommend, vote
364 for, or otherwise influence the approval ~~adoption~~ or purchase of
365 any instructional material.

366 ~~(3) A district school board or publisher may not~~
367 ~~participate in a pilot program of materials being considered for~~
368 ~~adoption during the 18-month period before the official adoption~~
369 ~~of the materials by the commissioner. Any pilot program during~~
370 ~~the first 2 years of the adoption period must have the prior~~
371 ~~approval of the commissioner.~~

372 (3)~~(4)~~ Any publisher or manufacturer of instructional
373 materials or representative thereof or any district school board
374 official or department or district ~~state~~ instructional materials
375 reviewer who violates any provision of this section commits a
376 misdemeanor of the second degree, punishable as provided in s.
377 775.082 or s. 775.083. Any representative of a publisher or

3-00662-13

20131388

378 manufacturer who violates any provision of this section, in
379 addition to any other penalty, shall be banned from practicing
380 business in the state for a period of 1 calendar year.

381 (4)~~(5)~~ This section does not prohibit any publisher,
382 manufacturer, or agent from supplying, for purposes of
383 examination, necessary sample copies of instructional materials
384 to any district school board official or department or district
385 ~~state~~ instructional materials reviewer.

386 (5)~~(6)~~ This section does not prohibit a district school
387 board official or department or district ~~state~~ instructional
388 materials reviewer from receiving sample copies of instructional
389 materials.

390 (6)~~(7)~~ This section does not prohibit or restrict a
391 district school board official from receiving royalties or other
392 compensation, other than compensation paid to him or her as
393 commission for negotiating sales to district school boards, from
394 the publisher or manufacturer of instructional materials
395 written, designed, or prepared by such district school board
396 official, ~~and adopted by the commissioner or~~ purchased by any
397 district school board. No district school board official shall
398 be allowed to receive royalties on any materials not ~~on the~~
399 ~~state-adopted list~~ purchased for use by his or her district
400 school board.

401 (7)~~(8)~~ A district school superintendent, district school
402 board member, teacher, or other person officially connected with
403 the government or direction of public schools may not receive
404 during the months actually engaged in performing duties under
405 his or her contract any private fee, gratuity, donation, or
406 compensation, in any manner whatsoever, for promoting the sale

3-00662-13

20131388

407 or exchange of any instructional material, map, or chart in any
408 public school, or be an agent for the sale or the publisher of
409 any instructional material or reference work, or have a direct
410 or indirect pecuniary interest in the introduction of any such
411 instructional material, and any such agency or interest shall
412 disqualify any person so acting or interested from holding any
413 district school board employment whatsoever, and the person
414 commits a misdemeanor of the second degree, punishable as
415 provided in s. 775.082 or s. 775.083; however, this subsection
416 does not prevent the approval ~~adoption~~ of any instructional
417 material written in whole or in part by a Florida author.

418 Section 7. Section 1006.33, Florida Statutes, is repealed.

419 Section 8. Section 1006.34, Florida Statutes, is amended to
420 read:

421 1006.34 Powers and duties of the State Board of Education
422 ~~commissioner and the department~~ in evaluating ~~selecting and~~
423 ~~adopting~~ instructional materials.—

424 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.—The
425 State Board of Education shall adopt rules prescribing the
426 procedures by which the department shall evaluate instructional
427 materials submitted by publishers and manufacturers in each
428 review for approval ~~adoption~~. Included in these procedures shall
429 be provisions affording each publisher or manufacturer or his or
430 her representative an opportunity to provide a virtual
431 presentation to the department ~~state~~ instructional materials
432 reviewers on the merits of each instructional material submitted
433 in each review for approval ~~adoption~~.

434 (2) FEES.—The State Board of Education may set and collect
435 fees from publishers or manufacturers participating in the

3-00662-13

20131388

436 instructional materials approval process who request a review of
437 their submitted materials by the department.

438 ~~(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—~~

439 ~~(a) The department shall notify all publishers and~~
440 ~~manufacturers of instructional materials who have submitted bids~~
441 ~~that within 3 weeks after the deadline for receiving bids, at a~~
442 ~~designated time and place, it will open the bids submitted and~~
443 ~~deposited with it. At the time and place designated, the bids~~
444 ~~shall be opened, read, and tabulated in the presence of the~~
445 ~~bidders or their representatives. No one may revise his or her~~
446 ~~bid after the bids have been filed. When all bids have been~~
447 ~~carefully considered, the commissioner shall, from the list of~~
448 ~~suitable, usable, and desirable instructional materials reported~~
449 ~~by the state instructional materials reviewers, select and adopt~~
450 ~~instructional materials for each grade and subject field in the~~
451 ~~curriculum of public elementary, middle, and high schools in~~
452 ~~which adoptions are made and in the subject areas designated in~~
453 ~~the advertisement. The adoption shall continue for the period~~
454 ~~specified in the advertisement, beginning on the ensuing April~~
455 ~~1. The adoption shall not prevent the extension of a contract as~~
456 ~~provided in subsection (3). The commissioner shall always~~
457 ~~reserve the right to reject any and all bids. The commissioner~~
458 ~~may ask for new sealed bids from publishers or manufacturers~~
459 ~~whose instructional materials were recommended by the state~~
460 ~~instructional materials reviewers as suitable, usable, and~~
461 ~~desirable; specify the dates for filing such bids and the date~~
462 ~~on which they shall be opened; and proceed in all matters~~
463 ~~regarding the opening of bids and the awarding of contracts as~~
464 ~~required by this part. In all cases, bids shall be accompanied~~

3-00662-13

20131388

465 ~~by a cash deposit or certified check of from \$500 to \$2,500, as~~
466 ~~the department may direct. The department, in adopting~~
467 ~~instructional materials, shall give due consideration both to~~
468 ~~the prices bid for furnishing instructional materials and to the~~
469 ~~report and recommendations of the state instructional materials~~
470 ~~reviewers. When the commissioner has finished with the report of~~
471 ~~the state instructional materials reviewers, the report shall be~~
472 ~~filed and preserved with the department and shall be available~~
473 ~~at all times for public inspection.~~

474 ~~(b) In the selection of instructional materials, library~~
475 ~~media, and other reading material used in the public school~~
476 ~~system, the standards used to determine the propriety of the~~
477 ~~material shall include:~~

478 ~~1. The age of the students who normally could be expected~~
479 ~~to have access to the material.~~

480 ~~2. The educational purpose to be served by the material. In~~
481 ~~considering instructional materials for classroom use, priority~~
482 ~~shall be given to the selection of materials which encompass the~~
483 ~~state and district school board performance standards provided~~
484 ~~for in s. 1001.03(1) and which include the instructional~~
485 ~~objectives contained within the curriculum frameworks approved~~
486 ~~by rule of the State Board of Education.~~

487 ~~3. The degree to which the material would be supplemented~~
488 ~~and explained by mature classroom instruction as part of a~~
489 ~~normal classroom instructional program.~~

490 ~~4. The consideration of the broad racial, ethnic,~~
491 ~~socioeconomic, and cultural diversity of the students of this~~
492 ~~state.~~

493

3-00662-13

20131388

494 ~~Any instructional material containing pornography or otherwise~~
495 ~~prohibited by s. 847.012 may not be used or made available~~
496 ~~within any public school.~~

497 ~~(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND. As~~
498 ~~soon as practicable after the commissioner has adopted any~~
499 ~~instructional materials and all bidders that have secured the~~
500 ~~adoption of any instructional materials have been notified~~
501 ~~thereof by registered letter, the department shall prepare a~~
502 ~~contract in proper form with every bidder awarded the adoption~~
503 ~~of any instructional materials. Each contract shall be executed~~
504 ~~by the commissioner, one copy to be kept by the contractor and~~
505 ~~one copy to be filed with the department. After giving due~~
506 ~~consideration to comments by the district school boards, the~~
507 ~~commissioner, with the agreement of the publisher, may extend or~~
508 ~~shorten a contract period for a period not to exceed 2 years;~~
509 ~~and the terms of any such contract shall remain the same as in~~
510 ~~the original contract. Any publisher or manufacturer to whom any~~
511 ~~contract is let under this part must give bond in such amount as~~
512 ~~the department requires, payable to the state, conditioned for~~
513 ~~the faithful, honest, and exact performance of the contract. The~~
514 ~~bond must provide for the payment of reasonable attorney's fees~~
515 ~~in case of recovery in any suit thereon. The surety on the bond~~
516 ~~must be a guaranty or surety company lawfully authorized to do~~
517 ~~business in the state; however, the bond shall not be exhausted~~
518 ~~by a single recovery but may be sued upon from time to time~~
519 ~~until the full amount thereof is recovered, and the department~~
520 ~~may at any time, after giving 30 days' notice, require~~
521 ~~additional security or additional bond. The form of any bond or~~
522 ~~bonds or contract or contracts under this part shall be prepared~~

3-00662-13

20131388

523 ~~and approved by the department. At the discretion of the~~
524 ~~department, a publisher or manufacturer to whom any contract is~~
525 ~~let under this part may be allowed a cash deposit in lieu of a~~
526 ~~bond, conditioned for the faithful, honest, and exact~~
527 ~~performance of the contract. The cash deposit, payable to the~~
528 ~~department, shall be placed in the Textbook Bid Trust Fund. The~~
529 ~~department may recover damages on the cash deposit given by the~~
530 ~~contractor for failure to furnish instructional materials, the~~
531 ~~sum recovered to inure to the General Revenue Fund.~~

532 ~~(4) REGULATIONS GOVERNING THE CONTRACT. The department may,~~
533 ~~from time to time, take any necessary actions, consistent with~~
534 ~~this part, to secure the prompt and faithful performance of all~~
535 ~~instructional materials contracts; and if any contractor fails~~
536 ~~or refuses to furnish instructional materials as provided in~~
537 ~~this part or otherwise breaks his or her contract, the~~
538 ~~department may sue on the required bond in the name of the~~
539 ~~state, in the courts of the state having jurisdiction, and~~
540 ~~recover damages on the bond given by the contractor for failure~~
541 ~~to furnish instructional materials, the sum recovered to inure~~
542 ~~to the General Revenue Fund.~~

543 ~~(5) RETURN OF DEPOSITS.—~~

544 ~~(a) The successful bidder shall be notified by registered~~
545 ~~mail of the award of contract and shall, within 30 days after~~
546 ~~receipt of the contract, execute the proper contract and post~~
547 ~~the required bond. When the bond and contract have been~~
548 ~~executed, the department shall notify the Chief Financial~~
549 ~~Officer and request that a warrant be issued against the~~
550 ~~Textbook Bid Trust Fund payable to the successful bidder in the~~
551 ~~amount deposited pursuant to this part. The Chief Financial~~

3-00662-13

20131388

552 ~~Officer shall issue and forward the warrant to the department~~
553 ~~for distribution to the bidder.~~

554 ~~(b) At the same time or prior thereto, the department shall~~
555 ~~inform the Chief Financial Officer of the names of the~~
556 ~~unsuccessful bidders. Upon receipt of such notice, the Chief~~
557 ~~Financial Officer shall issue warrants against the Textbook Bid~~
558 ~~Trust Fund payable to the unsuccessful bidders in the amounts~~
559 ~~deposited pursuant to this part and shall forward the warrants~~
560 ~~to the department for distribution to the unsuccessful bidders.~~

561 ~~(c) One copy of each contract and an original of each bid,~~
562 ~~whether accepted or rejected, shall be preserved with the~~
563 ~~department for at least 3 years after the termination of the~~
564 ~~contract.~~

565 ~~(6) DEPOSITS FORFEITED.—If any successful bidder fails or~~
566 ~~refuses to execute contract and bond within 30 days after~~
567 ~~receipt of the contract, the cash deposit shall be forfeited to~~
568 ~~the state and placed by the Chief Financial Officer in the~~
569 ~~General Revenue Fund.~~

570 ~~(7) FORFEITURE OF CONTRACT AND BOND.—If any publisher or~~
571 ~~manufacturer of instructional materials fails or refuses to~~
572 ~~furnish instructional materials as provided in the contract, the~~
573 ~~publisher's or manufacturer's bond is forfeited and the~~
574 ~~commissioner must make another contract.~~

575 Section 9. Section 1006.35, Florida Statutes, is amended to
576 read:

577 1006.35 Accuracy of instructional materials.—

578 (1) In addition to relying on statements of publishers or
579 manufacturers of instructional materials, the commissioner may
580 conduct or cause to be conducted an independent investigation to

3-00662-13

20131388

581 determine the accuracy of approved ~~state-adopted~~ instructional
582 materials.

583 (2) When errors in approved ~~state-adopted~~ materials are
584 confirmed, the publisher or manufacturer of the materials shall
585 provide to each district school board that has purchased the
586 materials the corrections in a format approved by the
587 department.

588 (3) The commissioner may remove materials from the list of
589 approved ~~state-adopted~~ materials if he or she finds that the
590 content is in error and the publisher or manufacturer refuses to
591 correct the error when notified by the department.

592 (4) The commissioner may remove materials from the list of
593 approved ~~state-adopted~~ materials at the request of the publisher
594 or manufacturer if, in his or her opinion, there is no material
595 impact on the state's education goals.

596 Section 10. Section 1006.36, Florida Statutes, is amended
597 to read:

598 1006.36 State review cycle ~~Term of adoption~~ for
599 instructional materials.—

600 (1) The state review cycle ~~term of adoption~~ of any
601 instructional materials shall ~~must~~ be a 5-year period ~~beginning~~
602 ~~on April 1 following the adoption~~, except that the commissioner
603 may approve alternative schedules ~~terms of adoption~~ of less than
604 5 years for materials in content areas which require more
605 frequent revision. ~~Any contract for instructional materials may~~
606 ~~be extended as prescribed in s. 1006.34(3).~~

607 (2) The department shall publish annually an official
608 schedule of subject areas to be called for review ~~adoption~~ for
609 each of the succeeding 2 years, and a tentative schedule for

3-00662-13

20131388

610 years 3, 4, and 5. If extenuating circumstances warrant, the
611 commissioner may add one or more subject areas to the official
612 schedule, in which event the commissioner shall develop criteria
613 for such additional subject area or areas and make them
614 available to publishers or manufacturers as soon as practicable
615 before the date on which submission for review is ~~bids~~ are due.
616 The schedule shall be developed so as to promote balance among
617 the subject areas so that the required expenditure for new
618 instructional materials is approximately the same each year in
619 order to maintain curricular consistency.

620 Section 11. Section 1006.37, Florida Statutes, is repealed.

621 Section 12. Subsections (2), (3), and (5) of section
622 1006.38, Florida Statutes, are amended, subsections (15) and
623 (16) are renumbered as subsections (11) and (12), respectively,
624 and present subsections (11) through (14) of that section are
625 amended, to read:

626 1006.38 Duties, responsibilities, and requirements of
627 instructional materials publishers and manufacturers.—Publishers
628 and manufacturers of instructional materials, or their
629 representatives, shall:

630 (2) Electronically deliver fully developed sample copies of
631 all instructional materials upon which reviews ~~bids~~ are based to
632 the department pursuant to procedures adopted by the State Board
633 of Education.

634 (3) ~~Submit, at a time designated in s. 1006.33,~~ the
635 following information:

636 (a) Detailed specifications of the physical characteristics
637 of the instructional materials, including any software or
638 technological tools required for use by the district, school,

3-00662-13

20131388

639 teachers, or students. The publisher or manufacturer shall
640 comply with these specifications if the instructional materials
641 are approved ~~adopted~~ and purchased in completed form.

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

647 (5) Furnish the instructional materials offered by them at
648 a price in the state which, including all costs of electronic
649 transmission, may not exceed the lowest price at which they
650 offer such instructional materials for approval ~~adoption~~ or sale
651 to any state or school district in the United States.

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

653 ~~(12) For the core subject areas specified in s. 1006.40(2),~~
654 ~~maintain in the depository for the first 2 years of the contract~~
655 ~~an inventory of instructional materials sufficient to receive~~
656 ~~and fill orders.~~

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

662 ~~(14) Accurately and fully disclose only the names of those~~
663 ~~persons who actually authored the instructional materials. In~~
664 ~~addition to the penalties provided in subsection (16), the~~
665 ~~commissioner may remove from the list of state-adopted~~
666 ~~instructional materials those instructional materials whose~~
667 ~~publisher or manufacturer misleads the purchaser by falsely~~

3-00662-13

20131388

668 ~~representing genuine authorship.~~

669 Section 13. Subsections (2), (3), and (4) of section
670 1006.40, Florida Statutes, are amended to read:

671 1006.40 Use of instructional materials allocation;
672 instructional materials, library books, and reference books;
673 repair of books.—

674 (2) Each district school board must provide ~~purchase~~
675 current instructional materials to ~~provide~~ each student ~~with a~~
676 ~~major tool of instruction~~ in core courses of the subject areas
677 of mathematics, language arts, science, social studies, reading,
678 and literature for kindergarten through grade 12. ~~Such purchase~~
679 ~~must be made within the first 2 years after the effective date~~
680 ~~of the adoption cycle. For the 2012-2013 mathematics adoption, a~~
681 ~~district using a comprehensive mathematics instructional~~
682 ~~materials program adopted in the 2009-2010 adoption shall be~~
683 ~~deemed in compliance with this subsection if it provides each~~
684 ~~student with such additional state-adopted materials as may be~~
685 ~~necessary to align the previously adopted comprehensive program~~
686 ~~to common core standards and the other criteria of the 2012-2013~~
687 ~~mathematics adoption.~~

688 (3) ~~(a)~~ By the 2015-2016 fiscal year, each district school
689 board shall use at least 50 percent of the annual allocation for
690 the purchase of digital or electronic instructional materials
691 that align with state standards ~~included on the state-adopted~~
692 ~~list, except as otherwise authorized in paragraphs (b) and (c).~~

693 ~~(b)~~ ~~Up to 50 percent of the annual allocation may be used~~
694 ~~for the purchase of instructional materials, including library~~
695 ~~and reference books and nonprint materials, not included on the~~
696 ~~state-adopted list and for the repair and renovation of~~

3-00662-13

20131388

697 ~~textbooks and library books.~~

698 ~~(c) District school boards may use 100 percent of that~~
699 ~~portion of the annual allocation designated for the purchase of~~
700 ~~instructional materials for kindergarten, and 75 percent of that~~
701 ~~portion of the annual allocation designated for the purchase of~~
702 ~~instructional materials for first grade, to purchase materials~~
703 ~~not on the state-adopted list.~~

704 (4) Remaining funds may ~~The funds described in subsection~~
705 ~~(3) which district school boards may use to purchase materials~~
706 ~~not on the state-adopted list shall be used for the purchase of~~
707 ~~instructional materials or other items having intellectual~~
708 ~~content which assist in the instruction of a subject or course.~~
709 ~~These items may be available in bound, unbound, kit, or package~~
710 ~~form and may consist of hardbacked or softbacked textbooks,~~
711 ~~electronic content, replacements for items which were part of~~
712 ~~previously purchased instructional materials, consumables,~~
713 ~~learning laboratories, manipulatives, electronic media, computer~~
714 ~~courseware or software, and other commonly accepted~~
715 ~~instructional tools as prescribed by district school board rule.~~

716 Section 14. Paragraphs (o) and (p) of subsection (6) of
717 section 1001.10, Florida Statutes, are amended to read:

718 1001.10 Commissioner of Education; general powers and
719 duties.—

720 (6) Additionally, the commissioner has the following
721 general powers and duties:

722 (o) To develop criteria for use by Department of Education
723 ~~state~~ instructional materials reviewers in evaluating materials
724 submitted for approval ~~adoption consideration~~. The criteria
725 shall, as appropriate, be based on instructional expectations

3-00662-13

20131388

726 reflected in course descriptions ~~curriculum frameworks~~ and
727 student performance standards. The criteria for each subject or
728 course shall be made available to publishers and manufacturers
729 of instructional materials pursuant to the requirements of
730 chapter 1006.

731 (p) To prescribe procedures for evaluating instructional
732 materials submitted by publishers and manufacturers in each
733 review for approval ~~adoption~~.

734 Section 15. Subsection (5) of section 1003.55, Florida
735 Statutes, is amended to read:

736 1003.55 Instructional programs for blind or visually
737 impaired students and deaf or hard-of-hearing students.—

738 (5) Any publisher or manufacturer of instructional
739 materials that have been approved by the Department of Education
740 or a school district ~~a textbook adopted pursuant to the state~~
741 ~~instructional materials adoption process~~ shall furnish the
742 department ~~of Education~~ with a computer file in an electronic
743 format specified by the department ~~at least 2 years in advance~~
744 that is readily translatable to braille and can be used for
745 large print or speech access. Any instructional materials
746 ~~textbook~~ reproduced pursuant to ~~the provisions of this~~
747 subsection shall be purchased at a price equal to the price paid
748 for the instructional materials ~~textbook~~ as approved ~~adopted~~.
749 The department ~~of Education~~ shall not reproduce instructional
750 materials ~~textbooks~~ obtained pursuant to this subsection in any
751 manner that would generate revenues for the department from the
752 use of such computer files or that would preclude the rightful
753 payment of fees to the publisher or manufacturer for use of all
754 or some portion of the instructional materials ~~textbook~~.

3-00662-13

20131388

755 Section 16. Paragraph (j) of subsection (2) of section
756 1003.621, Florida Statutes, is amended to read:

757 1003.621 Academically high-performing school districts.—It
758 is the intent of the Legislature to recognize and reward school
759 districts that demonstrate the ability to consistently maintain
760 or improve their high-performing status. The purpose of this
761 section is to provide high-performing school districts with
762 flexibility in meeting the specific requirements in statute and
763 rules of the State Board of Education.

764 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically
765 high-performing school district shall comply with all of the
766 provisions in chapters 1000-1013, and rules of the State Board
767 of Education which implement these provisions, pertaining to the
768 following:

769 (j) Those statutes relating to instructional materials,
770 except that ~~s. 1006.37, relating to the requisition of state-~~
771 ~~adopted materials from the depository under contract with the~~
772 ~~publisher, and s. 1006.40 1006.40(3)(a), relating to the use of~~
773 50 percent of the instructional materials allocation, is ~~shall~~
774 ~~be~~ eligible for exemption.

775 Section 17. Section 1010.82, Florida Statutes, is repealed.

776 Section 18. Paragraph (b) of subsection (6) of section
777 1011.62, Florida Statutes, is amended to read:

778 1011.62 Funds for operation of schools.—If the annual
779 allocation from the Florida Education Finance Program to each
780 district for operation of schools is not determined in the
781 annual appropriations act or the substantive bill implementing
782 the annual appropriations act, it shall be determined as
783 follows:

3-00662-13

20131388

784 (6) CATEGORICAL FUNDS.—

785 (b) If a district school board finds and declares in a
786 resolution adopted at a regular meeting of the school board that
787 the funds received for any of the following categorical
788 appropriations are urgently needed to maintain school board
789 specified academic classroom instruction, the school board may
790 consider and approve an amendment to the school district
791 operating budget transferring the identified amount of the
792 categorical funds to the appropriate account for expenditure:

793 1. Funds for student transportation.

794 2. Funds for safe schools.

795 3. Funds for supplemental academic instruction if the
796 required additional hour of instruction beyond the normal school
797 day for each day of the entire school year has been provided for
798 the students in each low-performing elementary school in the
799 district pursuant to paragraph (1)(f).

800 4. Funds for research-based reading instruction if the
801 required additional hour of instruction beyond the normal school
802 day for each day of the entire school year has been provided for
803 the students in each low-performing elementary school in the
804 district pursuant to paragraph (9)(a).

805 5. Funds for instructional materials if all instructional
806 material purchases necessary to provide updated materials that
807 are aligned with applicable ~~to Next Generation Sunshine~~ state
808 standards and course descriptions ~~benchmarks~~ and that meet
809 statutory requirements of content and learning have been
810 completed for that fiscal year, but no sooner than March 1.
811 Funds available after March 1 may be used to purchase hardware
812 for student instruction.

3-00662-13

20131388__

813

Section 19. This act shall take effect July 1, 2013.