

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 1210

INTRODUCER: Education Committee and Senator Lee and others

SUBJECT: Instructional Materials for K-12 Public Education

DATE: April 19, 2017

REVISED: \_\_\_\_\_

|    | ANALYST           | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|-------------------|----------------|-----------|--------------------|
| 1. | <u>Benvenisty</u> | <u>Graf</u>    | <u>ED</u> | <u>Fav/CS</u>      |
| 2. | <u>Sikes</u>      | <u>Hansen</u>  | <u>AP</u> | <u>Pre-meeting</u> |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1210 revises provisions relating to the definition and acquisition of instructional materials. Specifically, the bill:

- Defines “legal resident” or “resident” to mean a person who has maintained his or her legal residence in the state for the preceding year, has purchased a home that is occupied by him or her as his or her residence, or has established a domicile in this state pursuant to Florida law.
- Requires a district school board to adopt a policy regarding the right of a parent or legal resident of the county to object to the use of an instructional material based on specified criteria or contest the district school boards’ adoption of specific instructional materials.
- Revises the review process for district school boards that implement their own instructional materials review program.
- Requires district school board, upon a written request, to provide access to any instructional material or book specified in the written request, which is maintained in a district school system library and is available for review.
- Revises requirements related to the instructional materials allocation.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming law.

## II. Present Situation:

The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with Florida law.<sup>1</sup>

### District School Board Responsibility

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).<sup>2</sup> Florida law defines "adequate instructional materials" to mean a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked books, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as a basis for instruction for each student in the core subject areas<sup>3</sup>.<sup>4</sup>

Each district school board is responsible for the content of all instructional materials used in a classroom, whether adopted or purchased from the state-adopted instructional materials list, adopted or purchased through a district instructional materials project, or otherwise purchased or made available in the classroom.<sup>5</sup>

Each district school board must establish a process, as specified in law, by which the parent of a public school student may contest the district school board's adoption of specific instructional material.<sup>6</sup> The decision of the district school board, after convening a public hearing on the issue, is final.<sup>7</sup>

The district school board is authorized to implement an instructional materials program that includes the review, recommendation, adoption, and purchase of materials.<sup>8</sup> If a district school board chooses to implement its own instructional materials program, the school board must adopt rules implementing the program that include its processes, criteria, and requirements for:<sup>9</sup>

- Selection of reviewers, one or more of whom must be parents with children in public schools.
- Review of instructional materials, including a thorough review of curriculum content.
- Reviewer recommendations.
- District school board adoption.
- Purchase of materials.

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<sup>1</sup> Section 1006.28(1)

<sup>2</sup> Section 1006.28(1) and 1001.03(1), F.S.

<sup>3</sup> The core subject areas include mathematics, language arts, social studies, science, reading, and literature. Section 1006.28(1)

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at (1)(a)(1).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Section 1006.283(1).

<sup>9</sup> *Id.* at (2).

Additionally, the district school superintendent must certify to the DOE on an annual basis that all instructional materials for core courses used by the district are aligned with applicable state standards.<sup>10</sup>

### **State Instructional Materials Reviewers and Content**

The Commissioner must determine annually the areas in which instructional materials will be submitted for adoption and the number of titles in each area.<sup>11</sup> The Commissioner must appoint three state or national experts in the content areas submitted for adoption to review the instructional materials.<sup>12</sup>

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.<sup>13</sup>

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 that materials do not reflect unfairly upon people because of their race, color, creed, national origin, ancestry, gender, or occupation.<sup>14</sup> Reviewers must report to the DOE the materials being recommended that meet the guidelines for adoption.<sup>15</sup>

### **Instructional Materials Allocation**

The Commissioner of Education must annually certify to each district school superintendent the estimated allocated of state funds for instructional materials. The district is required to purchase current instructional materials in the core areas to provide students with current tools of instruction.<sup>16</sup> This purchase must be made within the first three years of the effective date of the adoption cycle.<sup>17</sup> Up to fifty percent of the allocation may be used to purchase non-adopted materials.<sup>18</sup>

## **III. Effect of Proposed Changes:**

The bill revises provisions relating to the definition and acquisition of instructional materials. Specifically, the bill:

- Defines “legal resident” or “resident” to mean a person who has maintained his or her legal residence in the state for the preceding year, has purchased a home that is occupied by him or her as his or her residence, or has established a domicile in this state pursuant to Florida law.

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<sup>10</sup> *Id.* at (1).

<sup>11</sup> Section 1006.29(1)(a), F.S.

<sup>12</sup> *Id.* at (b).

<sup>13</sup> Section 1006.31(2)(e), F.S.

<sup>14</sup> *Id.* at (2)(d), F.S.

<sup>15</sup> *Id.* at (3).

<sup>16</sup> Section 1006.40(2), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at (3)(b).

- Requires a district school board to adopt a policy regarding the right of a parent or legal resident of the county to object to the use of an instructional material based on specified criteria or contest the district school boards' adoption of specific instructional materials.
- Revises the review process for district school boards that implement their own instructional materials review program.
- Requires district school board, upon a written request, to provide access to any instructional material or book specified in the written request, which is maintained in a district school system library and is available for review.
- Revises requirements related to the instructional materials allocation.

### **Instructional Materials Definition (Section 1)**

Section 1 amends s. 1006.28, F.S., relating to the duties of the district school board, to adopt the definition of "instructional materials" contained in s. 1006.29(2), F.S., relating to the state review of instructional materials. "Instructional materials" is defined to mean items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.

### **Local Instructional Material Review (Sections 1 and 2)**

Section 1 requires a district school board to adopt a policy regarding the right of a parent or county resident to object to the use of an instructional material. This process must provide the parent or resident the opportunity to offer evidence to the district school board that:

- The instructional material does not meet criteria specified in law if it was selected for use in a course or otherwise made available to students in the school district but was not subject to the required public notice, review, comment, and hearing procedures.
- Any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or prohibited under Florida law, is not suited to student needs and their ability to comprehend the material presented, or is inappropriate for the grade level and age group for which the material is used.

This section also requires that such process must include the right to timely appeal any district decision to adopt specific instructional materials to the district school board making appropriate provision for appointment of unbiased and qualified hearing officers. Accordingly, the bill provides for public input in the use and adoption of instructional material at the local level.

Section 2 amends s. 1006.283, F.S., to require an instructional materials review committee to report directly to the school board and be subject to public meeting requirements in s. 286.011, F.S. As such, meetings of an instructional materials review committee are open to the public to the same extent as a district school board meeting. Additionally, this section requires that at least one-third of reviewers must be parents with children in public schools who are not and have not been employees of the district. Accordingly, this section provides for more parent input if the district school board implements an instructional materials process.

**State Instructional Materials Review (Section 3)**

Section 3 amends 1006.31, F.S., to clarify that instructional reviewers under both the state approval process and the district approval process are required to use the selection criteria enumerated in this bill and recommend only those materials aligned with the Next Generation Sunshine State Standard.

**Instructional Materials Allocation (Section 4)**

Section 4 amends s. 1006.40, F.S., to require each district school board that utilizes the state instructional materials adoption process to use the annual instructional materials allocation only for the purchase of materials that align with state standards and that are included on the state-adopted list.

Sections 5 and 6 amend ss. 1002.20 and 1006.42, F.S., respectively, to correct cross-references.

The bill takes effect upon becoming law.

**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:**

None.

**C. Government Sector Impact:**

The bill has no impact on state revenues or expenditures. The instructional materials allocation is funded as a categorical appropriation through the Florida Educational

Finance Program (FEFP).<sup>19</sup> The legislature appropriated \$228,792,422 in the 2016-2017 General Appropriations Act.<sup>20</sup>

## VI. Technical Deficiencies:

Lines 321-346 of the bill appear to provide contradictory direction regarding the allowable use of the instructional materials allocation. Lines 321-328 specify that the allocation may only be used to purchase instructional materials that align with state standards and that are included on the state-adopted list. However, Lines 329-346 authorize the use of up to 50 percent of the allocation for library and reference books and nonprint materials.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1006.28, 1006.283, 1006.31, 1006.40, 1002.20, and 1006.42.

## IX. 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 March 27, 2017:**

The committee substitute:

- Requires, upon a written request, a school district to provide access to any instructional material or book specified in the request which is maintained in a district school system library and is available for review. Requires a school district to provide access to instructional materials 30 days after receipt of the written request.
- Removes reference to school districts' authority to lease, license, or obtain instructional materials by school districts from the state-adopted instructional materials list.
- Specifies that except for a school district or a consortium of school districts that implements an instructional materials program, each district school board must use the annual allocation for only the purchase of instructional materials that align with state standards and that are included on the state-adopted list.
- Removes the requirement that a school district review the instructional materials purchased by the school district from the state-adopted list.
- Modifies the policy for school districts to handle objections raised by a parent or a county resident to include the opportunity for such individuals to offer evidence supporting such objections to the district school board.
- Provides procedural safeguards for all petitions contesting the adoption of specific instructional materials that are timely received.

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<sup>19</sup> Section 1, ch. 2016-66, L.O.F.

<sup>20</sup> *Id.*

- Modifies the use of up to 50 percent of the annual allocation to specify uses including library and reference books and nonprint materials, hardback and softback books, repair and renovation of textbooks, etc.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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