

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND: FLORIDA’S INSTRUCTIONAL MATERIALS PURCHASING PROCESS

Each year the Commissioner of Education determines the areas in which instructional materials must be submitted for adoption and appoints members of state instructional material committees. State instructional materials committees are responsible for making recommendations, in the form of a report, for instructional materials for each grade and subject field in the curriculum for public elementary, middle, and high schools in which adoptions are to be made. The Commissioner determines the number of titles to be adopted in each area.

The DOE must annually publish both an official and a tentative schedule of subject areas for adoption. The terms of adoption of any instructional material must be for a 6-year period; however, the commissioner may approve terms for less than 6 years for materials in content areas that require more frequent revision.

The Department of Legal Affairs prepares a contract with each successful bidder for execution by the Governor and the Secretary of State. After considering districts’ comments and with the publisher’s agreement, the commissioner may extend or shorten the contract period for no more than two years. The terms of the contract, however, remain the same as the original contract.

School District Responsibilities

District school superintendents, under s. 1003.02(1)(d), F.S., must meet specific instructional materials requirements, including:

- providing adequate instructional materials for all students in accordance with the requirements of chapter 1006, F.S., in the core courses of mathematics, language arts, social studies, science, reading, and literature, except for instruction for which the school advisory council approves the use of a program that does not include a textbook as a major tool of instruction;
- adopting courses of study for use in the schools;
- providing for proper requisitioning, distribution, accounting, storage, care, and use of all needed instructional materials; and
- ensuring that the use of materials is consistent with district goals and objectives, curriculum frameworks approved by the State Board of Education, and required state and district performance standards.

Allocation of Funds

Instructional materials are funded as a categorical appropriation in the General Appropriations Act. Section 1011.67, F.S., provides that the DOE is authorized to allocate and distribute to each district an amount as prescribed annually by the Legislature. Instructional materials are provided for students enrolled in basic and special programs in grades K-12. The department distributes to each district an amount, calculated by formula, which provides for growth of student membership and to maintain the required instructional materials for current enrollment. Statutory guidelines, prohibitions, and exceptions for the use of the instructional materials allocation are established in ss. 1006.40 and 1011.62, F.S., including materials on the state adopted list and certain materials not included on the list. When a school district's total allocation has not been expended or obligated prior to June 30 in any year, the law (s. 1006.40(7), F.S.) requires the school district to carry forward the unobligated amount and add it to the next year's instructional materials allocation.

Each district school board must purchase current instructional materials to provide each student with a textbook or other instructional material as a major tool of instruction in core courses of the appropriate subject areas of mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12. The law (s. 1006.40(2), F.S.) specifies when the purchases must be made. Unless specifically provided for in the General Appropriations Act, the cost of instructional materials purchases required by s. 1006.40(2) (a), F.S., may not exceed the amount of the district's allocation for instructional materials, pursuant to s. 1011.67, F.S., for the previous 2 years.

Depository and Other Requirements

Bidders for state-adopted materials contracts (s. 1006.33, F.S.) must state the lowest wholesale price at which the materials will be furnished at the time of adoption, delivered f.o.b. (free on board) to the Florida depository of the publisher, manufacturer, or bidder. Publishers or manufacturers must provide materials at a price, inclusive of all transportation costs to their depositories, that does not exceed the lowest price for adoption or sale to any state or school district in the U.S. Also, publishers and manufacturers must maintain or contract with a depository in the state and maintain an inventory that is sufficient to receive and fill orders. Section 1006.37, F.S., requires district school superintendents to requisition adopted instructional materials from the depository under contract with the publisher, subject to certain conditions.

According to the DOE, there are three depositories in Florida. The Florida School Book depository is under contract with publishers or manufacturers. Two depositories (Liberia Impacto and ABC Book Supply, Inc.) are maintained by publishers or manufacturers and currently conduct a limited volume of business with school districts.

Disposal of Instructional Materials

Section 1006.41(1), F.S., allows for the disposition of instructional materials that have become unserviceable or surplus or that are no longer on state contract. These may be disposed of under district school board rule by various means, including selling the materials to used book dealers, recycling plants, pulp mills, or other persons, firms, or corporations upon such terms as are most economically advantageous to the district school board.

Charter Schools

Section 1002.33, F.S., relates to charter schools. Charter schools are public schools that operate under a written contract signed by the sponsor and the governing body of the school. Current law (s. 1002.33(16), F.S.) provides exemptions for charter schools from chapters 1000-1013, F.S., with the exception of specific statutory provisions. According to the DOE, charter schools may use state-adopted instructional materials, although they are not required to do so.

International Standard Book Number

The 10 digits of the International Standard Book Number (ISBN) for books, software, mixed media etc., include identifiers for the country, the publisher, and the title. The U.S. ISBN Agency assigns the ISBN publisher prefix to those publishers with a residence or office in the U.S. and that publish their titles within the U.S. These ISBN publisher prefixes are unique to each publisher. The ISBN serves as a

unique identifier for various purposes, including: stock control; ordering; accounting; handling or returns; sales data monitoring; and right and royalty management.

Implementing Legislation for Fiscal Year 2003-2004

Chapter 2003-399, L.O.F., an implementing bill, authorized the Department of Education to conduct a pilot program to enable selected school districts to realize cost savings without loss of quality or availability for individual students in the purchase of used instructional materials. The school districts of Hernando County, Pasco County, Seminole County and Polk County were authorized to participate in the pilot program. Charter schools in the selected school districts were eligible to participate in the pilot program.

The implementing bill language provided that when a secondhand book dealer or other third-party book vendor provides used adopted instructional materials to a school district, the dealer or vendor must certify the availability of the used instructional material, provide the International Standard Book Number of each of the used instructional materials, and certify that such materials are not samples or first printings, are the most currently adopted, Florida-specific instructional materials, and conform to the Sunshine State Standards.

Additionally, the language provided that the state was not responsible for financial loss caused by the school district's deviating from the requirements of s. 1006.37, F.S. The Department of Education was required to submit to the Legislature a report of the cost savings to school districts based on results of the pilot program. The pilot program is set to expire on July 1, 2004.

The Department of Education submitted the required report in February, 2004. Reported cost savings for each district are as follows:

- Hernando County: \$14,893.28
- Pasco County; \$28,855.96
- Polk County: No data available
- Seminole County: No data available

Hernando County reported the following problems with the pilot program:

- Vendors not responding in a timely manner result in lengthy time for quotes
- Directions for the paperwork involved for DOE was not clear

Pasco County reported that the additional time required to process orders increased their manpower needs. Their report recommended that bids be put in place with the major used book vendors so that each individual district would not have to go through a lengthy process involving getting price quotes and formal bids.

Polk County orders the majority of their textbooks in late spring so most of their 2003-2004 adoption materials were ordered prior to the July 1, 2003 effective date of the implementing bill. Most materials that were ordered after July 1, 2003, went through the Florida School Book Depository because of the free materials and teacher editions that are included. Purchasing all of the materials from another vendor would have cost a great deal more. For the materials that were purchased through used book vendors, the materials arrived quickly and in good condition although one time, the vendor was called to confirm availability, but by the time the purchase order was received, the materials were no longer available and the vendor did not contact the school.

Seminole County had also made most of their purchases before the effective date of the bill. Some materials were ordered after the pilot program was in place; however, it was less expensive to order from the Florida School Book Depository because of the free materials and teacher editions. Waiting on quotes from vendors was also a problem when books were needed immediately because of growth or increased enrollment.

HB 195 – PROPOSED CHANGES

The bill allows the Department of Education to conduct the same pilot program authorized in the 2003-2004 implementing bill with the exception that three, instead of four, school districts (Hernando County, Pasco County, and Polk County) are included in the pilot program. The purpose of the program is to allow the districts to realize a cost savings in the purchase of instructional materials, by allowing them to purchase used materials from sources other than depositories. However, the cost savings must be realized without a loss of quality or availability to students. Charter schools in the three districts may participate in the program.

Secondhand book dealers or other third-party book vendors that provide used, adopted instructional materials to a school district are subject to the following requirements:

- certification that the materials are available;
- certification that the materials are the most currently adopted, Florida-specific instructional materials and that the materials conform to the Sunshine State Standards;
- provision of the International Standard Book Number of each of the used instructional materials; and
- materials supplied are not first printings or samples.

According to the DOE, the Sunshine Standards were developed in 1996 and any instructional materials submitted for the 1998-1999 adoption for the core subject areas must correlate to these standards. However, there are certain subject areas (e.g., computer education, business, industrial education, family and consumer sciences) that currently conform to requirements other than the Sunshine State Standards. This may result in the inability of secondhand book dealers or vendors to participate in the pilot program for these subject areas.

For purposes of the pilot program, the requirements in s. 1006.37, F.S. (relating to the requisition of these materials from the publisher depositories) do not apply. The bill provides that the state is not responsible for a financial loss resulting from a school district's deviation from the requirements in s. 1006.37, F.S. Also, the Council for Education Policy Research and Improvement (CEPRI) must submit a report to the legislative leaders of each chamber for consideration during the 2005 Legislative Session. The report must contain the cost savings to the school districts, based on the results of the pilot program.

The bill provides for the repeal of the pilot program on July 1, 2007. The effective date of the bill is July 1, 2004.

C. SECTION DIRECTORY:

Section 1. Provides for K-12 instructional materials pilot project.

Section 2. Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: The state and school districts may realize cost savings if the pilot program shows that it can reduce instructional materials costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For the pilot project, the bill provides a statutory exception to the requirement in law (s. 1006.37, F.S.) to purchase from the depositories under contract with publishers or manufacturers. This provision may affect future contracts for instructional materials. These contracts are between the state and publishers or manufacturers, as well as contracts between publishers and their depositories. The Florida School Book depository is the primary depository.

Subject to fiscal sanctions for noncompliance, publishers and manufacturers must continue to maintain or contract with a depository and maintain the required inventories in the depository. The fiscal impact is unknown for continuing these requirements during the operation of pilot programs that may not actually use the inventory in the depositories.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 2, 2004, the Subcommittee on Education Appropriations favorably recommended HB195 with one technical amendment that conforms the language regarding the participating school districts to the Senate bill.

