

Regular Session, 2013

HOUSE BILL NO. 116

BY REPRESENTATIVE HOFFMANN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TEXTBOOKS/MATERIALS: Provides relative to textbooks and other instructional materials for elementary and secondary schools

1 AN ACT

2 To amend and reenact R.S. 17:7(4) and 351 and to repeal R.S. 17:8 through 8.2, 22(2)(e),
3 352, 353, 415.1, and 1985, relative to textbooks and other instructional materials for
4 elementary and secondary schools; to provide relative to the duties, functions, and
5 responsibilities of the State Board of Elementary and Secondary Education; to
6 provide relative to the authority of public school governing authorities to purchase
7 textbooks and other instructional materials; to provide relative to funding; to provide
8 relative to the review of textbooks and other instructional materials by the state
9 Department of Education, parents, and the public; to provide relative to contracts
10 with publishers relative to the purchase, lease, and use of textbooks and other
11 instructional materials; to provide relative to depositories for textbooks and other
12 instructional materials; to provide relative to rules and regulations; and to provide
13 for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 17:7(4) and 351 are hereby amended and reenacted to read as
16 follows:

17 §7. Duties, functions, and responsibilities of board

18 In addition to the authorities granted by R.S. 17:6 and any powers, duties, and
19 responsibilities vested by any other applicable laws, the board shall:

20 * * *

1 (4) ~~Prescribe and adopt~~ through rules and regulations the adoption and use
2 of free school books textbooks and other materials of instruction for the children of
3 this state at the elementary and secondary levels and all other schools and programs
4 under its jurisdiction for which the legislature provides funds, in accordance with
5 law. The State Board of Elementary and Secondary Education shall not require
6 specific textbooks or other instructional materials that are to be purchased or used
7 by the governing authority of a public school to meet or exceed the standards
8 provided in R.S. 17:24.4 or by the governing authority of a nonpublic school to meet
9 or exceed the standards provided in R.S. 17:11.

* * *

§351. Free school books and other materials of instruction

A.(1) The State Board of Elementary and Secondary Education shall
prescribe ~~and adopt~~ through rules and regulations the adoption of school books
textbooks and other materials of instruction by the governing authority of each public
elementary and secondary school, including special schools, and the use of such
materials. ~~which it~~ Such textbooks and other materials of instruction shall supply be
supplied without charge to the children of this state at the elementary and secondary
levels out of funds appropriated therefor by the legislature in accordance with the
requirements of Article VIII, Section 13(A) of the Constitution of Louisiana.

(2) The state Department of Education shall offer a review service of
textbooks and other instructional materials to evaluate their alignment to state
content standards; however, the department may limit the number of reviews it
performs in accordance with funds available for such purpose. All reviews shall be
made publicly available through the department's website. The governing authority
of each public elementary and secondary school may purchase textbooks and other
instructional materials that have not been reviewed by the department.

(3) The State Board of Elementary and Secondary Education shall not limit
the amount or percentage of state or local funds the governing authority of a public

1 elementary or secondary school may expend on the purchase of textbooks and other
2 instructional materials needed to teach state content standards.

3 ~~(2) The State Board of Elementary and Secondary Education~~ (4) The
4 governing authority of each public elementary and secondary school shall ~~prescribe~~
5 ~~and adopt those school books~~ adopt and use textbooks and other materials of
6 instruction ~~which~~ that accurately reflect the contributions and achievements of
7 people of differing races:

8 (3) ~~The State Board of Elementary and Secondary Education shall prescribe~~
9 ~~and adopt those school books and other materials of instruction which~~ and that
10 promote an understanding of the history and values of the people of the United States
11 and Louisiana, including the free enterprise system, private property, constitutional
12 liberties, democratic values, and traditional standards of moral values.

13 (5) The governing authority of each public elementary and secondary school
14 shall adopt rules and regulations that ensure that all textbooks and materials of
15 instruction under consideration for adoption are thoroughly screened and reviewed
16 as to their content prior to adoption. These rules and regulations shall provide for
17 opportunities for parents and other members of the public to review and provide
18 input relative to the textbooks and materials of instruction under consideration for
19 adoption.

20 B. ~~The board also shall prescribe and supply schoolbooks and other materials~~
21 ~~of instruction for use by students attending vocational-technical schools and~~
22 ~~programs under the jurisdiction of the board.~~

23 C: (1) ~~The board~~ State Board of Elementary and Secondary Education shall
24 establish rules and procedures for supplying, through the local public school
25 governing authority, schoolbooks textbooks and other materials of instruction
26 approved by the State Board of Elementary and Secondary Education as required by
27 ~~this Section~~ for children participating in any home study program approved by the
28 board when available. Such rules and procedures shall include but not be limited to
29 a requirement that ~~any schoolbooks~~ textbooks and other materials of instruction

1 provided pursuant to this Subsection shall be made available only to the child or
2 children of the parent or legal guardian obtaining approval for a home study
3 program.

4 (2) The state board shall provide a copy of such rules and procedures to any
5 parent or legal guardian applying for approval of a home study program.

6 C.(1) The governing authority of each public elementary and secondary
7 school may purchase electronic textbooks and other instructional materials, media,
8 or content and their means of distribution or access as it deems necessary and
9 appropriate to fulfill its educational mission and to address state content standards
10 and school and district accountability system requirements. Each public school
11 governing authority is encouraged to maximize the availability and accessibility of
12 electronic textbooks and instructional materials.

13 (2) The State Board of Elementary and Secondary Education shall not limit
14 the amount or percentage of state or local funds the governing authority of a public
15 elementary or secondary school may expend for the purchase of electronic textbooks,
16 instructional materials, or other education-related media or content or their means
17 of distribution or access.

18 D. ~~Notwithstanding any law, rule, regulation, or policy to the contrary, a~~
19 ~~city, parish, or other local public school board may use state funds to purchase~~
20 ~~computer hardware. The governing authority of a public elementary or secondary~~
21 ~~school may sell any textbook or library book no longer in use to any person or entity~~
22 ~~for private use at a fee established by the governing authority.~~

23 E.(1) No publisher, distributor, wholesaler, or retailer shall charge the
24 governing authority of a public or nonpublic school a purchase price, rental fee, or
25 other fee for the purchase, lease, or use of a textbook or instructional material that
26 exceeds the lowest price or fee charged for the same textbook or instructional
27 material to a school governing authority in another state.

28 (2) Any provision in a contract, subcontract, purchase order, or other
29 agreement for the purchase, lease, or use of a textbook or other instructional material

1 between a school governing authority and a publisher, distributor, wholesaler, or
2 retailer that exceeds the limit set in Paragraph (1) of this Subsection shall be null and
3 void.

4 (3) The purchase of textbooks and other instructional materials by school
5 governing authorities shall be exempt from the Louisiana Procurement Code and
6 Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 and any other
7 provision of law requiring public bidding.

8 (4) The provisions of this Subsection shall apply to contracts, subcontracts,
9 purchase orders, and other agreements as provided in this Section entered into on or
10 after July 1, 2013.

11 F. Publishers, distributors, wholesalers, or retailers shall sell textbooks and
12 other instructional materials at the same price to all school governing authorities in
13 the state and shall guarantee constant pricing for such products throughout each
14 fiscal year.

15 G.(1) Each publisher doing business with a school governing authority in the
16 state shall maintain, at the publisher's expense, an inventory of textbooks and other
17 instructional materials in sufficient quantities to meet all reasonable and immediate
18 demands at one or more full-service depositories centrally located in the state and
19 registered with the state Department of Education.

20 (2) The state Department of Education may provide standards for
21 determining whether or not a depository is in good standing based on the
22 department's determination of the level of service provided by the depository to
23 school governing authorities in the purchase of textbooks and other instructional
24 materials.

25 Section 2. R.S. 17:8 through 8.2, 22(2)(e), 352, 353, 415.1, and 1985 are hereby
26 repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hoffmann

HB No. 116

Abstract: Provides relative to textbooks and other instructional materials for elementary and secondary schools; shifts responsibility for selecting textbooks from the state to the local level.

BESE's general role in the textbook selection and distribution process

Present law requires the State Board of Elementary and Secondary Education (BESE) to prescribe and adopt and exercise control and supervision over the distribution and use of free school books and other materials of instruction, including their approval, for use in public schools. Proposed law instead requires BESE to prescribe through rules and regulations the adoption of textbooks and other materials of instruction by the governing authority of each public elementary and secondary school, including special schools. Prohibits BESE from requiring specific textbooks or instructional materials that are to be purchased or used by a public school governing authority to meet or exceed present law standards relative to the La. Competency-Based Education Program and the La. Educational Assessment Program or by a nonpublic school governing authority to meet or exceed present law standards relative to BESE approval of nonpublic schools.

Present law requires the state superintendent of education to prepare the list of free school books and other materials of instruction for BESE adoption. Proposed law repeals present law.

Present constitution requires the legislature to appropriate funds to supply free school books and materials prescribed by BESE.

Review of textbooks by state Dept. of Education

Proposed law requires the state Dept. of Education (DOE) to offer a review service of textbooks and other instructional materials for alignment to state content standards but authorizes the department to limit the number of reviews in accordance with funds available for such purpose. Requires that reviews be made available through the DOE website.

Review and inspection of textbooks by public

Present law requires that textbooks and materials be made available for public inspection at DOE during regular office hours. Provides for textbook review procedures, including citizen participation, the composition of textbook committees, and the placement of proposed textbooks in various public library branches throughout the state.

Proposed law repeals present law and instead requires public school governing authorities to adopt rules and regulations that ensure that all textbooks and materials of instruction are thoroughly screened and reviewed prior to adoption and requires that such rules provide opportunities for parental and public review and input.

Purchase of textbooks by public school governing authorities; contracts with publishers

Proposed law prohibits BESE from limiting the amount or percentage of state or local funds a public school governing authority may expend on the purchase of textbooks or other instructional materials needed to teach state content standards.

Present law encourages school boards to maximize the availability and accessibility of electronic versions of textbooks and other instructional materials and authorizes their purchase. Prohibits BESE from restricting the amount or percentage of state or local funds a board may expend on them. Proposed law retains present law.

Proposed law provides the following:

- (1) Prohibits a publisher, distributor, wholesaler, or retailer from charging a La. school governing authority a price or fee for a textbook or instructional material that exceeds the lowest price or fee charged for the same in another state; provides that any provision in any agreement that exceeds this limit shall be null and void.
- (2) Requires publishers, distributors, wholesalers, and retailers to sell textbooks and other instructional materials at the same price to all school governing authorities in La. and guarantee constant pricing in each fiscal year.

Present law requires each contract with a publisher for school books to be awarded on a competitive basis. Proposed law repeals present law and exempts the purchase of textbooks and other instructional materials by school governing authorities from the La. Procurement Code, the Public Bid Law, and any other present law requiring public bidding.

Textbook depositories

Present law provides relative to DOE's service as the state depository for school books. Proposed law repeals present law and requires each publisher doing business with a La. school governing authority to maintain, at the publisher's expense, an inventory of textbooks and other instructional materials in sufficient quantities to meet all reasonable and immediate demands at one or more full-service depositories centrally located in La. and registered with DOE. Authorizes DOE to provide standards for determining whether or not a depository is in good standing.

Sale of school books no longer in use

Present law authorizes a school board, with prior BESE approval, to sell any textbook or library book no longer in use to any person or entity for private use at a fee established by the school board. Limits use of funds from such sale to textbook or library book purchases. Proposed law deletes requirement for prior BESE approval and the limitation on the specific use of sale funds.

Textbooks for home study students

Present law requires BESE to establish rules and procedures for supplying school books and other materials of instruction for children participating in approved home study programs when available. Proposed law specifies that such materials shall be supplied through the local public school governing authority.

Miscellaneous provisions

Present law:

- (1) Requires public school boards that disburse school library books, textbooks, and other instructional materials to nonpublic school students to submit documentation to the state superintendent of education to verify the administrative costs incurred and requires that such verified costs be paid by the state.
- (2) Provides relative to the donation and disposal of school books no longer in use.

- (3) Requires BESE to prescribe and adopt and exercise supervision and control over school books and other learning materials for postsecondary and vocational-technical schools and programs.
- (4) Requires BESE to require publishers to furnish computer diskettes for producing braille versions of textbooks.

Proposed law repeals present law in (1) through (4) above.

(Amends R.S. 17:7(4) and 351; Repeals R.S. 17:8 - 8.2, 22(2)(e), 352, 353, 415.1, and 1985)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Adds a provision prohibiting BESE from requiring textbooks or other instructional materials to meet certain standards.
2. Instead of making the requirement that the state Dept. of Education (DOE) offer a service to review textbooks subject to the availability of funds, requires DOE to offer the review service while authorizing it to limit reviews in accordance with funds available for such purpose.
3. Adds a provision requiring public school governing authorities to adopt rules relative to the screening and review of textbooks and instructional materials.
4. Adds that the purchase of textbooks and instructional materials by school governing authorities is exempt from present law relative to procurement and public bidding.
5. Adds proposed law provisions relative to contracts with publishers and textbook depositories.