Regular Session, 2011

HOUSE BILL NO. 580

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

AN ACT

To enact R.S. 17:8.3, 8.4, and 3996(B)(13) and to repeal R.S. 17:8 through 8.2, 351 through 353, and 415.1, relative to textbooks and other instructional materials; to provide relative to procedures for recommendation and purchasing; to provide relative to contracts with publishers; to provide relative to electronic versions; to provide relative to funding; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:8.3, 8.4, and 3996(B)(13) are hereby enacted to read as follows:

§8.3. School books prescribed by board

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

B. The State Board of Elementary and Secondary Education shall require the governing authority of each public elementary and secondary school to adopt procedures permitting any public school student to have use, after regular school

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hours during the week and on weekends, of any free school book. Any public school student using any school book pursuant to the provisions of this Subsection shall be responsible for such school book. These procedures shall not be applicable to basal readers and programs.

C. The State Board of Elementary and Secondary Education shall ensure that school books and materials of instruction accurately reflect the contributions and achievements of people of differing races and which promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties, democratic values, and traditional standards of moral values.

D. The State Board of Elementary and Secondary Education shall require that all school books and other materials of instruction adhere to curriculum standards adopted by the board pursuant to R.S. 17:24.4(E).

E. The State Board of Elementary and Secondary Education shall encourage the governing authority of each public elementary and secondary school to maximize the availability and accessibility of electronic textbooks and instructional materials in any school under its jurisdiction. Each such governing authority may purchase electronic textbooks and other instructional materials, media, or content and their means of distribution or access as it deems necessary and appropriate to fulfill its educational mission and to address state curriculum standards and school and district accountability system requirements.

F. The State Board of Elementary and Secondary Education shall not restrict the amount or percentage of state or local funds a public school governing authority may expend for the purchase of printed or electronic textbooks, instructional materials, or other education-related media or content or their means of distribution or access whether or not they are on the state list of recommended textbooks and other instructional materials.

G. The State Board of Elementary and Secondary Education shall establish rules and procedures for supplying school books and other materials of instruction

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for children participating in any home study program approved by the board when available. Such rules and procedures shall include but not be limited to a requirement that any school books and other materials of instruction provided pursuant to this Subsection shall be made available only to the child or children of the parent or legal guardian obtaining approval for a home study program. The board shall provide a copy of such rules and procedures to any parent or legal guardian applying for approval of a home study program.

H. The governing authority of each public elementary and secondary school that disburses school library books, textbooks, and other materials of instruction to nonpublic school students shall submit to the state superintendent of education such documentation as required to verify the administrative costs incurred by the governing authority in the disbursement of such books and instructional materials. The verified costs of administration incurred by each governing authority shall be paid by the state.

§8.4. Contracts with publishers; reviewing school books and materials of instruction

A. The State Board of Elementary and Secondary Education shall award contracts with publishers of school books on a competitive basis for a term to be determined by the board. Each contract shall be so made as to authorize the board to terminate it upon ninety-days notice. The procedure for examining books and awarding contracts shall be under the control of the board and in accordance with any applicable law. The board shall have authority to set and collect fees from publishers participating in state school book contracting procedures.

B. Each contract shall stipulate that the publisher shall automatically reduce the net cost of textbooks in the state when the net cost of the publisher for books covered by the contract are reduced anywhere in the United States, so that no edition of that textbook shall at any time be sold in this state at a higher net cost than that received for that book elsewhere in the United States.

C. Each contract with a publisher shall stipulate that the book or books covered by the contract to be sold in this state shall be identical with the official

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samples filed with the board with respect to size, paper, binding, print, illustrations, subject matter, and all other particulars which may affect the value of said books.; however, during the period of the contract, the board may approve revised editions of a textbook or service at the bid price, which will authorize a publisher to provide such revisions.

D. Each contract with a publisher shall stipulate that whenever five thousand or more copies of a textbook of a single title and edition are to be purchased by the state from a single publisher during a twelve-month period which shall be established by the board by rule, not less than eighty percent of the total number of the copies of such book purchased by the state shall be printed and bound by a printer licensed to do business and doing business within the state, provided that the publisher receives a timely bid made according to the publisher's bid-making requirements from such a printer and provided that the printer is able to print and bind such book in accordance with the manufacturer's specifications for state textbooks as promulgated by the state Department of Education and at a cost equal to or less than the unit cost per book for the same number of books made in an otherwise qualified bid by any out-of-state printer bidding on the same work. Whenever two or more printers in this state submit bids which would qualify all of them to print and bind textbooks pursuant to this Section and one such printer is a minority-owned business as defined in R.S. 39:1952(15), the minority-owned business shall be awarded not less than ten percent of the printing and binding required by this Section to be done in this state.

E. The State Board of Elementary and Secondary Education shall make every effort to increase the availability and accessibility of electronic textbooks and instructional materials in the state's public elementary and secondary schools and shall encourage all publishers to provide electronic versions of the products they offer, whether in addition to, or in lieu of, the printed version.

F. The state Department of Education shall be the depository in the state for books for the schools. The state superintendent of education may do all things

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necessary and proper for the department to function as such depository, including but not limited to providing for the power to enter into contracts or agreements and to acquire property, through lease or purchase, in which the depository is to be located, and to determine the location or locations of the depository. The superintendent may require publishers to maintain a depository in the state or may contract, in accordance with the procedures for the letting of contracts set forth in applicable provisions of the Louisiana Procurement Code, particularly R.S. 39:1593, with any other public or private agency to act as the depository.

G. The state Department of Education shall require any depository with which the department does business to provide the department a written summary of all purchase orders for textbooks received by the depository from the department. The depository shall transmit such summary within three business days whenever the department requests it to do so, and the department shall make such a request upon the written request of any printer licensed to and actually doing business in Louisiana. Such a summary shall be a public record. The summary shall itemize the total number of copies of each book which is the subject of a purchase order, the unit price of each book, the commissions paid to or the discounts received by the depository, and the publisher of each book.

H. The books shall be distributed to the governing authority of each public elementary and secondary school from the depository on requisition of the state superintendent of education.

I.(1) The State Board of Elementary and Secondary Education shall establish a procedure enabling each governing authority of a public elementary or secondary school to order and receive textbooks. The procedure shall include but not be limited to permitting a public elementary or secondary school governing authority to contract with a textbook publisher and receive any applicable publisher's discount; however, any textbook purchased under the provisions of this Paragraph shall be purchased at the same price or a lower price than such textbook can be purchased from any source other than the publisher.

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(2) The State Board of Elementary and Secondary Education shall adopt necessary rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subsection.

J. The State Board of Elementary and Secondary Education shall take such action as is necessary to assure that all school books and materials of instruction included in state publisher contracts are thoroughly screened, reviewed, and approved as to their alignment with content standards adopted by the board pursuant to R.S. 17:24.4(E).

K. The State Board of Elementary and Secondary Education shall take such action as is necessary to assure that any state committee or other group responsible for screening, reviewing, and evaluating any materials of instruction and computer and related technological equipment and supplies, other than the governing authority of a public elementary or secondary school, shall contain a membership not less than one-third of which are teachers. For the purposes of this Section, the term "teacher" shall mean any person employed by a city or parish school board who, as a condition of employment, is required to hold a valid teaching certificate issued by the state Department of Education. Not less than one-third of such committee or group shall be parents who are not public educators. Meetings of such committee or group shall be open to the public, and any member of the public may attend and file written or make oral objections to any textbook under consideration. The board shall adopt a form whereby any member of the public may file written objections to any textbook being considered for inclusion in a contract.

L. The State Board of Elementary and Secondary Education shall maintain a copy of all recommended textbooks and instructional materials. Such textbooks and materials shall be maintained at the state Department of Education for a period of one year following their initial recommendation. Such textbooks and materials shall be available for public inspection online or during regular office hours.

M.(1) The state Department of Education shall ensure that all textbooks being considered for state recommendation are placed, prior to state recommendation

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and for a period of at least ninety days, in two cooperating public library branches in Baton Rouge, in three cooperating public library branches in New Orleans to be determined by the New Orleans Public Library system, and in a cooperating public library in Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Houma, Covington, Hammond, Metairie, Marrero, Bossier City, Natchitoches, Ruston, DeRidder, New Iberia, Opelousas, Bogalusa, and any other city designated by the superintendent of elementary and secondary education. Any interested person may inspect and review the books during the period when they are on display. Four samples of each such textbook shall be made available for such inspection and review at each such library. Three such samples shall be made available to be checked out from each such library by any interested person according to rules and regulations that the state Department of Education shall establish for such purpose. The locations and dates of availability of such textbooks shall be posted by the state Department of Education on its website in the form of a press release which shall remain posted online for the duration of the review period.

(2) The provisions of this Subsection shall be applicable only to such a textbook for which an electronic copy is not available online for inspection and review.

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§3996. Charter schools; exemptions

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B. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

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(13) Textbooks and other instructional materials, R.S. 17:8.3 and 8.4.

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Section 2. R.S. 17:8 through 8.2, 351 through 353, and 415.1 are hereby 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. 580

Abstract: Provides relative to textbooks and other instructional materials for elementary and secondary schools; shifts responsibility for selecting textbooks from BESE to the local school board or other governing authority. Authorizes BESE to recommend textbooks.

Proposed law makes changes to terminology throughout present law to refer to the governing authority of a public elementary or secondary school rather than a city, parish, or other local public school board.

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 for use in elementary and secondary schools and special schools. Proposed law instead requires BESE to prescribe through rules and regulations the recommendation, distribution, and use of such books and materials. Further requires BESE to require that all such books and materials adhere to curriculum standards adopted by BESE (also known as grade-level expectations or GLEs).

Funding of textbooks and other instructional materials

Present law prohibits BESE from restricting the amount or percentage of state or local funds a board may expend for electronic versions of textbooks and materials. Proposed law broadens the application of this prohibition to provide that there shall be no such restriction with respect to the purchase of electronic or printed textbooks or instructional materials, regardless of whether they are on the state list of recommended textbooks and materials.

Review and inspection of textbooks

Present law requires that textbooks and materials be made available for public inspection at the state Dept. of Education during regular office hours. Proposed law adds as an alternative that they be made available for inspection online.

Present law 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 retains present law but provides that copies are only required to be placed throughout the state when electronic versions are not available online.

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Miscellaneous provisions

Present law:

(1) Requires BESE to establish rules and procedures for supplying school books and other materials of instruction for children participating in approved home study programs.

(2) Provides relative to contracts with publishers for school books and for the state Dept. of Education's service as the state depository for school books.

(3) Encourages school boards to maximize the availability and accessibility of electronic versions of textbooks and other instructional materials and authorizes a school board to purchase them as it deems necessary and appropriate.

(4) Requires public school boards that disburse school library books, textbooks, and other instructional materials to nonpublic school students to submit to the state superintendent of education documentation to verify the administrative costs incurred and provides that such verified costs shall be paid by the state.

Proposed law retains present law.

Present law:

(1) Provides relative to the disposition of school books no longer in use, including provisions dealing with their sale, donation, and disposal.

(2) Requires BESE to prescribe and adopt and exercise supervision and control over the distribution and use of school books and other learning materials, supplies, and equipment for postsecondary and vocational-technical schools and programs.

Proposed law deletes present law.

(Adds R.S. 17:8.3, 8.4, and 3996(B)(13); Repeals R.S. 17:8-8.2, 351-353, and 415.1)

Summary of Amendments Adopted by House

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

1. Specifies that the prohibition against BESE's restriction of the amount or percentage of funds that a public school governing authority may expend on textbooks or instructional materials shall be applicable whether or not they are on the state list of recommended textbooks or other instructional materials.

2. Deletes proposed law provision authorizing BESE to disapprove of the use of textbooks not on the state list of recommended textbooks.

3. Reinstates present law deleted in the original bill that provides relative to the following:

   (a) The composition of committees or groups responsible for screening, reviewing, and evaluating textbooks and instructional materials.

   (b) The required placement of copies of textbooks in various library branches throughout the state. (Proposed law further provides that such placement shall not be required if electronic copies are available for online inspection and review).

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(c) Contracts with publishers, including the requirement that the state Dept. of Education encourage publishers to provide electronic versions of products.

(d) The state Dept. of Education's service as the state depository for school books.

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