

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 921 Instructional Materials for K-12 Public Education

**SPONSOR(S):** K-12 Subcommittee; Gaetz

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 864

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Brink	Ahearn
2) Education Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

Currently, district school boards may implement their own instructional materials program or purchase instructional materials through the state review and adoption process. The bill eliminates the state's instructional materials review and adoption process and shifts the responsibility to each school district to select and provide adequate instructional materials for all students. Accordingly, the bill deletes corresponding sections of law that provide for:

- State review of instructional materials;
- The powers and duties of the Commissioner of Education (commissioner) and the Department of Education (DOE) related to selecting and adopting instructional materials;
- The bidding process for state instructional materials adoption; and
- Timelines and schedules relating to the adoption and requisition of instructional materials through the state adoption process.

The bill conforms language to reflect the shift in responsibility to the district school boards and clarifies that certain requirements for state instructional materials reviewers are applicable to district instructional materials reviewers.

The bill establishes district school board rulemaking requirements for implementation of the instructional materials review process, notice of instructional materials adoption and the opportunity for public review and comment, and appointment of district instructional materials reviewers by district school boards and district school superintendents. The bill allows district instructional materials review committees to combine with other district committees to form super committees, which may reduce costs associated with the review and adoption of instructional materials for smaller school districts.

The bill requires the DOE to publish recommended, minimum technology requirements that include guidelines on the number of students per device necessary to ensure that students can access all instructional materials in digital format and specification for hardware, software, networking, and security.

The bill authorizes districts to requisition adopted instructional materials either from a contracted publisher's depository or from another vendor selling the materials.

The bill prohibits instructional materials that contain pornography or are prohibited as matter harmful to minors under s. 847.02, F.S., from being used or made available within a public school.

Because the bill requires districts to hire reviewers and establish infrastructure for the review and adoption of instructional materials, there will be a fiscal impact on the school districts, but the impact is indeterminate.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Instructional Materials Adoption

Instructional materials are items having intellectual content designed to serve as a major tool for instruction of a subject or course. Instructional materials may consist of hard-backed or soft-backed textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.<sup>1</sup> State law provides a statewide process for the adoption of instructional materials, and the Commissioner of Education (commissioner) annually determines the academic areas in which instructional materials must be submitted for adoption.<sup>2</sup>

Publishers and manufacturers that provide instructional materials as a single bundle must make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.<sup>3</sup>

Funding for instructional materials is provided annually in the General Appropriations Act. Legislation enacted in 2013 provides each school district the option of implementing its own program for the review, approval, adoption, and purchase of instructional materials.<sup>4</sup> School districts that participate in the state instructional materials adoption process must procure instructional materials for each content area every five years, with exceptions for content areas that require more frequent revision. The content areas scheduled for adoption rotate each year.<sup>5</sup> State reviewers evaluate instructional materials for alignment with the applicable state academic standards and recommend materials for inclusion on a state-adopted list.<sup>6</sup>

School districts that choose to purchase instructional materials through the state adoption process must expend a portion of their state funding to purchase materials on the state-adopted list. School districts that implement their own instructional materials program are not required to purchase instructional materials on the state-adopted list or follow the same review cycle used for state instructional materials adoption.<sup>7</sup>

##### School District Use of State Instructional Materials Funds

School districts that purchase instructional materials through the state adoption process must purchase instructional materials within the first three years of the effective date of the adoption cycle.<sup>8</sup> By fiscal year 2015-16, each school district that purchases instructional materials through the state adoption process must use at least 50 percent of the funds allocated for instructional materials to purchase digital or electronic instructional materials on the state-adopted list.<sup>9</sup> The remainder of the funds may be used to purchase instructional materials not on the state-adopted list, but must be used for the purchase of instructional materials or other items having intellectual content which assist in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may include hardbacked or softbacked textbooks, electronic content, and replacements for items which were part of previously purchased instructional materials, consumables, learning

---

<sup>1</sup> Sections 1006.28(1) and 1006.29(2), F.S.

<sup>2</sup> Section 1006.29(1), F.S.

<sup>3</sup> Section 1006.29(2), F.S.

<sup>4</sup> Section 2, ch. 2013-237, L.O.F., *codified at* s. 1006.283, F.S.; *see* part I, subpart F., ch. 1006, F.S.

<sup>5</sup> Sections 1006.29(1) and 1006.36, F.S.

<sup>6</sup> Sections 1006.29(1)(b) and 1006.31(2), F.S.

<sup>7</sup> Sections 1006.283 and 1006.40, F.S.

<sup>8</sup> Section 1006.40(2), F.S.

<sup>9</sup> Section 1006.40(3)(a), F.S.

laboratories, manipulatives, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by district school board rule.<sup>10</sup> A school district may also use the remainder of funds for the repair and renovation of textbooks and library books.<sup>11</sup>

One hundred percent of the state instructional materials funds used for kindergarten and 75 percent of the state instructional materials funds used for first grade may be spent to purchase materials that are not on the state-adopted list.<sup>12</sup>

A school district that implements its own instructional materials program must expend up to 50 percent of its annual instructional materials allocation on digital or electronic materials by FY 2015-16; however, the district is not required to purchase instructional materials on the state-adopted list. The remaining funds must be spent on instructional materials; however, unlike districts that purchase instructional materials through the state adoption process, the district has full discretion to determine the types of materials purchased.<sup>13</sup>

For all school districts, funds allocated to purchase instructional materials may only be used for other classroom expenditures or the purchase of hardware for student instruction when the district school board finds and declares in a resolution that the funds received for instructional materials are urgently needed to maintain school board specified academic classroom instruction.<sup>14</sup>

### State Instructional Materials Adoption Process

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. However, the commissioner may approve terms of adoption of less than five years for materials in content areas which require more frequent revision.<sup>15</sup> The Department of Education (DOE) annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years, and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct the DOE to add one or more subject areas to the official schedule.<sup>16</sup>

Approximately one year before the adoption of instructional materials in a certain subject area, the DOE publishes specifications for the subjects to be adopted. These specifications detail the courses for which materials are sought and the standards the materials must meet.<sup>17</sup>

Beginning on or before May 15 of the adoption year, the DOE advertises<sup>18</sup> a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.<sup>19</sup>

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as “suitable, usable, and desirable” instructional materials for each grade and subject in the curriculum of public elementary, middle, and high schools in which adoptions are made and in the subject areas designated in the advertisement.<sup>20</sup>

---

<sup>10</sup> Section 1006.40(4), F.S.

<sup>11</sup> Section 1006.40(3)(b), F.S.

<sup>12</sup> Section 1006.40(3)(c), F.S.

<sup>13</sup> Section 1006.40(3)(a), F.S.

<sup>14</sup> Section 1011.62(6)(b)5., F.S. The expenditure of funds for other classroom expenditures or for the purchase of hardware for student instruction may only occur if the school district has purchased all of the instructional materials necessary to provide updated materials aligned to the state academic standards for that fiscal year. Purchases may not be made before March 1. The funds available after March 1 may be used to purchase hardware for student instruction. *Id.*

<sup>15</sup> Section 1006.36(1), F.S.

<sup>16</sup> Section 1006.36(2), F.S.

<sup>17</sup> Florida Department of Education, Bureau of Curriculum and Instruction, *Policies and Procedures for the Florida Instructional Materials Adoption*, at 1 (Dec. 2011), *incorporated by reference into* rule 6A-7.0710, F.A.C.

<sup>18</sup> Beginning in FY 2010-11, all advertisements must state that each bidder must furnish electronic sample copies of all instructional materials submitted. Section 1006.33(1)(b), F.S.

<sup>19</sup> Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

<sup>20</sup> Section 1006.34(2)(a), F.S.

## State Instructional Materials Reviewers

The state instructional materials reviewers are state or national experts in the content areas submitted for adoption. The reviewers are appointed by the commissioner by April 15 of each school year to review the instructional materials and evaluate the content for alignment with the applicable state academic standards.<sup>21</sup>

The state instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.<sup>22</sup> After receiving training, the reviewers must review the materials for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.<sup>23</sup>

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.<sup>24</sup>

Each state instructional materials reviewer must sign an affidavit to the effect that he or she:

- Will faithfully discharge the duties imposed as a state instructional materials reviewer.
- Has no interest in any publishing or manufacturing organization that produces or sells instructional materials.
- Is in no way connected with the distribution of the instructional materials.
- Does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools.
- Will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted.
- Understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.<sup>25</sup>

## Duties of School Districts

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the instructional usability of the resources.<sup>26</sup> Persons selected as school district reviewers must complete training, developed by the DOE, related to the evaluation and selection of instructional materials.<sup>27</sup>

School districts are required to purchase current instructional materials to provide each student adequate materials for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.<sup>28</sup> School districts review state-adopted instructional

---

<sup>21</sup> Section 1006.29(1)(b), F.S.

<sup>22</sup> Section 1006.29(4), F.S.

<sup>23</sup> Section 1006.29(1)(b), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 1006.30, F.S.

<sup>26</sup> Section 1006.29(1)(c), F.S.

<sup>27</sup> Section 1006.29(5), F.S.

<sup>28</sup> Section 1006.40(2), F.S. "Adequate instructional materials" means 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 textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that

materials and select materials to be used in their local schools.<sup>29</sup> State-adopted instructional materials are available for purchase beginning April 1 of the year following adoption and must be requisitioned from the depository of the publisher.<sup>30</sup>

Within the first three years of the adoption cycle, a school district superintendent must purchase instructional materials to provide each student with a textbook or other materials as a major tool of instruction for these core courses.<sup>31</sup> The superintendent must keep adequate records and accounts for all financial transactions related to instructional materials.<sup>32</sup> The superintendent is also required to notify the DOE by April 1 of which instructional materials will be used by the district. The notification must include a plan to be used to determine if adequate instructional materials have been purchased.<sup>33</sup>

By July 1 of each year and before state instructional materials funds are released, a school district's superintendent must certify to the commissioner that the district school board has approved a comprehensive staff development plan that supports implementation of instructional materials programs. The school district must verify that training was provided and that the materials are being implemented as designed.<sup>34</sup>

Instructional materials that are unserviceable, surplus, or no longer on state contract may be given by a school district to other education programs; teachers; students, including home education students; or any charitable organization, governmental agency, private school, or state. To dispose of instructional materials, a school district may also sell the materials to used-book dealers; recycling plants; pulp mills; or other persons, firms, or corporations. Any money received must be deposited in the school district's fund for instructional materials.<sup>35</sup>

### Duties of School Principals

A school principal is responsible for:

- Assuring that instructional materials are used to provide instruction to students enrolled at the grade level for which the materials are designed;
- Communicating to parents how instructional materials are used to implement curricular objectives;
- Selling instructional materials to parents upon request; and
- Accounting for instructional materials and collecting payment from a student or parent for any lost, destroyed, or damaged instructional materials<sup>36</sup> and transmitting all money collected to the school district superintendent for deposit into the district school board fund.<sup>37</sup>

### Duties of Publishers and Manufacturers

Publishers and manufacturers of instructional materials must, among other things:

- Submit electronic sample copies of instructional materials to the DOE;

---

serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.” Section 1006.28(1), F.S.

<sup>29</sup> See s. 1006.28(1)(b), F.S.

<sup>30</sup> Sections 1006.36(1) and 1006.37(1), F.S.; see also s. 1006.28(2)(b), F.S.; Florida Department of Education, Bureau of Curriculum and Instruction, *Florida Instructional Materials Adoption Schedule for Adoption Years 2011-2012 through 2016-2017* (May 22, 2012), available at [http://www.fldoe.org/BII/instruct\\_mat/pdf/cycle.pdf](http://www.fldoe.org/BII/instruct_mat/pdf/cycle.pdf);

<sup>31</sup> Section 1006.37(1), F.S.

<sup>32</sup> Section 1006.28(2)(a), F.S.

<sup>33</sup> Section 1006.28(2)(a), F.S.

<sup>34</sup> Section 1011.67(2), F.S.

<sup>35</sup> Section 1006.41(1) and (3), F.S.

<sup>36</sup> Principals are authorized to suspend a student from participating in extracurricular activities if the debt is not paid or require the student to participate in community service activities to satisfy the debt. Section 1006.28(3)(b), F.S.

<sup>37</sup> Section 1006.28(3), F.S.

- Submit evidence that the materials provided address the state academic and the materials can be accessed through the district's local instructional improvement system and a variety of electronic, digital, and mobile devices;
- Furnish instructional materials at a price not to exceed the lowest price offered in other states;
- Automatically reduce the price of instructional materials or provide materials free of charge if provided to other states at a reduced rate or free of charge;
- Disclose the authors of the instructional materials;
- Keep the materials revised, free from all errors, and up-to-date; and
- Maintain a depository in Florida for the in-state distribution of instructional materials to school districts from the depository or contract with a depository in the state.<sup>38</sup>

Additionally, publishers and manufacturers of instructional materials are prohibited from offering any emolument, money, or other valuable thing or any inducement, to any district school board official or state instructional materials reviewer to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional materials. Violating this prohibition is a second degree misdemeanor and will result in a ban from practicing business in the state for one calendar year.<sup>39</sup>

### School District Instructional Materials Adoption Programs

School districts that choose to implement their own instructional materials program are not required to purchase instructional materials from the state-adopted list,<sup>40</sup> requisition instructional materials from the publisher's depository,<sup>41</sup> or follow the same review cycle used for state instructional materials adoption.<sup>42</sup> Multiple school districts may form a consortium for the purpose of implementing an instructional materials program.<sup>43</sup>

Each school board implementing an instructional materials program must adopt rules:

- Specifying the instructional materials review process, review cycle, and duties and qualifications of instructional materials reviewers;
- Requiring school district instructional materials reviewers to comply with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;
- Requiring reviewer and publisher compliance with law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials;
- Specifying a process for certifying the accuracy of instructional materials;
- Requiring publisher compliance with law regarding publisher duties, responsibilities, and requirements; and
- Specifying the instructional materials purchase process, including advertising, bidding, and purchasing requirements.<sup>44</sup>

School district instructional materials reviewers must review instructional materials using standards similar to those currently specified for state instructional materials reviewers and for alignment to the state academic standards. Beginning in the 2013-14 school year, the district superintendent must annually certify that all instructional materials for core courses used by the school district are aligned with applicable state standards and provide a list of all core materials that will be used or purchased by the district.<sup>45</sup>

---

<sup>38</sup> Section 1006.38, F.S.

<sup>39</sup> Section 1006.32(1) and (4), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

<sup>40</sup> Section 1006.40(3)(a), F.S.

<sup>41</sup> Section 1006.37(3), F.S.

<sup>42</sup> Section 1006.283(2)(b), F.S.

<sup>43</sup> Section 1006.283(1), F.S.

<sup>44</sup> Section 1006.283(2), F.S.

<sup>45</sup> Section 1006.283(2) and (4), F.S.

School districts implementing their own instructional materials program may collect fees from publishers who submit instructional materials for review. Such fees may not exceed the actual cost to review a publisher submission up to a maximum of \$3,500. Fees assessed and collected must be posted on the district website, reported to the DOE, and maintained in a separate line item for auditing purposes.<sup>46</sup>

School districts may only use revenues generated by fees to support the instructional materials review process, including the payment of stipends for reviewers, reimbursement of travel expenses and per diem incurred by reviewers, and costs relating to employing substitute teachers to fill in for instructional personnel serving as reviewers.<sup>47</sup>

### Transition to Digital and Electronic Instructional Materials

Beginning in the 2015-16 school year, all state-adopted instructional materials for students in kindergarten through grade 12 must be provided in an electronic or digital format.<sup>48</sup> Also, by 2015-2016, each school district must use at least 50 percent of its annually allocated instructional materials funding to purchase digital or electronic instructional materials.<sup>49</sup>

Instructional materials in electronic format and digital format do not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, equipment, or supplies.<sup>50</sup>

### Local Instructional Improvement Systems

A local instructional improvement system is a system that uses electronic and digital tools that provide teachers, administrators, students, and parents with data and resources to systematically manage continuous instructional improvement. The system must support relevant activities such as instructional planning, information gathering and analysis, rapid-time reporting, decision making on appropriate instructional sequence, and evaluating the effectiveness of instruction. Additionally, the system must integrate instructional information with student-level data to provide predictions of future student achievement.<sup>51</sup>

Each school district must provide teachers, administrators, students, and parents access to a local instructional improvement system. The system must provide access to electronic and digital instructional materials, and teaching and learning tools and resources, including the ability for teachers and administrators to manage, assess, and track student learning.<sup>52</sup> By June 30, 2014, the local instructional improvement system should allow for a single, authenticated sign-on and include the following functionality:

- Vertically searches for, gathers, and organizes specific standards-based instructional materials.
- Enables teachers to prepare lessons, individualize student instruction, and use best practices in providing instruction.

---

<sup>46</sup> Section 1006.283(3)(a), F.S.

<sup>47</sup> Section 1006.283(3)(b), F.S.

<sup>48</sup> Section 1006.29(3), F.S. “Electronic format” means text-based or image-based content in a form that is produced on, published by, and readable on computers or other digital devices and is an electronic version of a printed book, whether or not any printed equivalent exists. “Digital format” means text-based or image-based content in a form that provides the student with various interactive functions; that can be searched, tagged, distributed, and used for individualized and group learning; that includes multimedia content such as video clips, animations, and virtual reality; and that has the ability to be accessed at any time and anywhere. Section 1006.29(3)(a) and (b), F.S.

<sup>49</sup> Section 1006.40(3)(a), F.S. School districts that purchase instructional materials through the state adoption process must purchase the digital instructional materials off the state-adopted list. School districts that implement their own instructional materials program are not required to purchase the digital instructional materials off the state-adopted list. *Id.*

<sup>50</sup> Section 1006.29(3), F.S. (flush left at the end of subsection)

<sup>51</sup> Section 1006.281(1), F.S.

<sup>52</sup> Section 1006.281(2), F.S.

- Provides communication, including access to up-to-date student performance data, in order to help teachers and parents better serve the needs of students.
  - Provides access for administrators to ensure quality.
  - Enables district staff to plan, create, and manage professional development and to connect professional development with staff information and student performance data.
- Provides access to multiple content providers and provides the ability to seamlessly connect the local instructional improvement system to electronic and digital content.<sup>53</sup>

### Instructional Materials Content

Any instructional materials recommended by reviewers for use in schools must be, to the satisfaction of each reviewer, accurate, objective, current, and suited to the needs and comprehension of students at their respective grade levels.<sup>54</sup>

### **Effect of Proposed Changes**

School districts may establish their own instructional materials program or participate in the state instructional materials adoption process. The bill eliminates the state's instructional materials review and adoption process and shifts responsibility to each school district to select and provide adequate instructional materials for all students. Accordingly, the bill deletes corresponding sections of law that provide for:

- State review of instructional materials;<sup>55</sup>
- The powers and duties of the commissioner and the DOE relating to selecting and adopting instructional materials;<sup>56</sup>
- The bidding process for state instructional materials adoption;<sup>57</sup> and
- Timelines and schedules relating to the adoption of instructional materials through the state adoption process.<sup>58</sup>

The bill also conforms language to reflect the transfer of responsibility for the review and adoption of instructional materials to the district school boards.

Because the bill eliminates the state instructional materials adoption process, the bill requires each district school board or consortium of school boards to implement an instructional materials program. The bill requires each school district to make available upon request for public inspection sample copies of all instructional materials that have been adopted by the district school board.

The bill requires each district school board to adopt rules that establish the process by which the school board adopts instructional materials and criteria for the review and recommendation of instructional materials, including a thorough review of curriculum content. In addition, each district must establish a local instructional materials review committee to review and recommend instructional materials to the district school board for final adoption. The bill allows districts to combine local instructional materials review committees to form super committees, which may reduce costs associated with the review and adoption of instructional materials for smaller school districts.

Each local instructional materials review committee must consist of members who are appointed as follows:

---

<sup>53</sup> Section 1006.281(3), F.S.

<sup>54</sup> Section 1006.31(2)(e), F.S.

<sup>55</sup> Section 1006.29, F.S.

<sup>56</sup> Section 1006.34, F.S.

<sup>57</sup> Section 1006.33, F.S.

<sup>58</sup> Section 1006.29, F.S.



- Each district school board member must appoint one person who has subject area expertise in science, mathematics, language arts, social studies, or career or technical studies and who is not employed by the district;
- The superintendent must appoint a number of classroom teachers, equal to the number of district school board members, who are representative of the subject areas and grade levels of the materials being considered for adoption; and
- The district school board and the superintendent must each appoint at least one parent of a student who is currently enrolled in a public school in the district.

The bill requires that each district instructional materials reviewer file with the district school board the affidavit currently filed by each state instructional materials reviewer with the DOE prior to transacting business. The bill does not retain the requirement that district instructional materials reviewers complete DOE-developed training related to the evaluation and selection of instructional materials.

The bill specifies that the review cycles for instructional materials must be identified by subject area in school board rule. The bill also clarifies that the instructional materials rules must require the school board to determine and certify the accuracy of the adopted instructional materials. In addition, the bill requires that adopted instructional materials, in addition to being accurate; objective; current; and suitable based on a student's needs, comprehension, and grade level, must also be balanced, noninflammatory, and fact based.

The district school board rule establishing the process by which the school board adopts instructional materials must provide for the following:

- An open, noticed district school board hearing to review recommended instructional material and receive public comment;
- An open, noticed public school board meeting, held on a different date than the public hearing, to approve an annual instructional materials plan, including the adoption of instructional materials;
- Posting of the recommended instructional materials on the district school board's website at least 20 days in advance of public hearings and public meetings. The district must establish an electronic process by which the public can submit, and the school board members and the superintendent can access, comments on the recommended instructional materials; and
- The requirement that the notices for public hearing and public meetings specifically state which materials are being reviewed and the manner in which the materials can be accessed for public review.

Reasonable safeguards must be established against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment. Only the student editions of the instructional materials may be posted.

The bill also requires each district school to adopt in rule the process by which the school district will notify parents of their ability to access their children's textbooks and instructional materials through the district's local instructional improvement system and by which the school district will encourage parents to access the system.

The bill requires that, beginning in the 2015-2016 school year, all adopted instructional materials for students in kindergarten through grade 12 be available in a digital format. The bill deletes reference to the term "electronic format,"<sup>59</sup> presumably because the term "digital format,"<sup>60</sup> includes instructional material in an electronic format. In addition, the bill provides that school districts, beginning in the 2014-2015 school year, may use all of their instructional materials allocation on digital instructional materials.

<sup>59</sup> See *supra* text accompanying note 58.

<sup>60</sup> See *supra* text accompanying note 59. The bill specifies that the definition of "digital format" does not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor does the term include equipment or supplies.

The bill requires the DOE to publish recommended, minimum technology requirements that include guidelines on the number of students per device necessary to ensure that students can access all instructional materials in digital format and specification for hardware, software, networking, and security.

Any instructional materials that contain pornography or are prohibited as matter harmful to minors under s. 847.02, F.S., may not be used or made available within a public school. The bill provides that the following standards must be used to determine the propriety of instructional materials, library media, and other reading materials by district instructional materials reviewers:

- The age of the students who normally could be expected to have access to the material;
- The educational purpose to be served by the material, with priority given to the selection of materials that encompass the state academic standards provided by law and that include the instructional objectives contained in the course description approved by state board rule;
- The degree to which the material would be supplemented and explained by mature classroom instruction as part of a normal classroom instructional program; and
- The consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the students in Florida.

With respect to the requisition of instructional materials, the bill provides that a district school superintendent, in addition to requisitioning materials from the depository of a publisher with whom a contract has been made, may requisition materials from any other vendor selling the district-adopted instructional materials. The bill also permits a district school board or consortium to requisition adopted instructional materials from a vendor or from the publisher's depository.

The bill provides that digital instructional materials purchased by districts in the 2015-2016 school year and thereafter must be included on the district-adopted list, align to state academic standards, and be consistent with district goals and objectives and the course descriptions adopted in state board rule.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 1006.28, F.S., providing that the district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students; redefining the term "adequate instructional materials."

Section 2. Amends s. 1006.283, F.S., requiring a district school board or consortium of school districts to implement an instructional materials program; including criteria for the review and recommendation of instructional materials, the process by which instructional materials are adopted, and the process by which a school district will notify parents of their ability to access their children's instructional materials in the list of the subjects that must be addressed by rule of the district school board; requiring adopted instructional materials to be provided in digital format; defining the term "digital format"; requiring the Department of Education to publish minimum, recommended technology requirements; requiring the district to make available, upon request, sample copies of its adopted instructional materials.

Section 3. Repeals s. 1006.29, F.S., relating to state instructional materials reviewers.

Section 4. Amends s. 1006.30, F.S., requiring each district instructional materials reviewer to file an affidavit with the district school board, rather than the DOE.

Section 5. Amends s. 1006.31, F.S., deleting references to the DOE regarding the duties of instructional materials reviewers; revising the evaluation procedure for instructional materials.

Section 6. Amends s. 1006.32, F.S., conforming provisions to changes made by the act.

Section 7. Repeals s. 1006.33, F.S., relating to bids, proposals, and advertisement regarding the adoption of instructional materials.

Section 8. Repeals s. 1006.34, F.S., relating to powers and duties of the commissioner and the DOE in selecting and adopting instructional materials.

Section 9. Amends s. 1006.35, F.S., requiring the district school board, rather than the commissioner, to conduct an independent investigation to determine the accuracy of district-adopted instructional materials; authorizing the district school board, rather than the commissioner, to remove materials from the list of district-adopted materials under certain circumstances.

Section 10. Repeals s. 1006.36, F.S., relating to the term of adoption for instructional materials.

Section 11. Amends s. 1006.37, F.S., authorizing, rather than requiring, the district school superintendent to requisition adopted instructional materials from the depository of a publisher with whom a contract has been made or any other vendor selling the adopted instructional materials; deleting provisions regarding the superintendent's requisition of instructional materials; conforming provisions to changes made by the act; authorizing a district school board or a consortium of school districts to requisition instructional materials from the publisher's depository or any other vendor selling adopted instructional materials and to request assistance from the publisher's depository to recommend instructional materials for review, approval, adoption, and purchase; requiring the recommended materials to be consistent with certain goals, objectives, and requirements; requiring that personnel from the publisher's depository sign an affidavit in order to be considered an instructional materials reviewer.

Section 12. Amends s. 1006.38, F.S., conforming provisions to changes made by the bill; revising the duties, responsibilities, and requirements of instructional materials publishers and manufacturers.

Section 13. Amends s. 1006.40, F.S., deleting provisions regarding the adoption of instructional materials for certain core courses in the subject area of mathematics; requiring each district school board to use a certain percentage of the annual allocation for the purchase of digital, rather than electronic, instructional materials that meet certain goals, objectives, and requirements; deleting provisions regarding the use of the district's annual allocation for the purchase of instructional materials.

Section 14. Amends s. 1006.41, F.S., conforming provisions to changes made by the act.

Section 15. Amends s. 1006.282, F.S., conforming cross-references.

Section 16. Amends s. 1010.82, F.S., conforming cross-references.

Section 17. Provides an effective date of July 1, 2014.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

2. Expenditures:

The fiscal impact of the bill on school districts is indeterminate. Districts will likely incur costs related to the hiring of reviewers and establishing the infrastructure necessary to conduct reviews. See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Although school districts are likely to incur costs associated with the review of materials, s. 1006.283, F.S., authorizes the districts to collect fees from publishers who submit instructional materials for review. Such fees may not exceed the actual cost to review a publisher submission up to a maximum of \$3,500. Fees assessed and collected must be posted on the district website, reported to DOE, used to support the review process, and maintained in a separate line item for auditing purposes.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires district school boards to adopt rules relating to the adoption of instructional materials.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 12, 2014, the K-12 Subcommittee adopted four amendments and reported the bill favorably as a committee substitute. The amendments:

- Require that adopted instructional materials, in addition to being accurate; objective; current; and suitable based on a student's needs, comprehension, and grade level, must also be balanced, noninflammatory, and fact based;
- Provide that school districts, beginning in the 2014-2015 school year, may use all of their instructional materials allocation on digital instructional materials;
- Require that reasonable safeguards be put into place against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment and clarify that the student editions of the instructional materials must be posted; and
- Remove the bill's provision allowing a district school board or consortium of districts to request assistance from the publisher's depository to recommend instructional materials for review, approval, adoption, and purchase.