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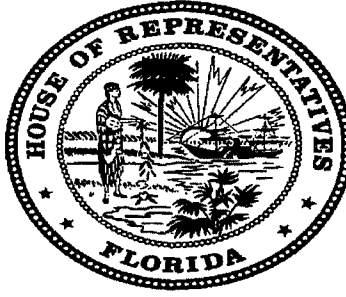
# **Education Committee**

**Tuesday, April 16, 2013  
9:00 AM – 10:00 AM  
102 HOB**

**Meeting Packet**

**Will Weatherford  
Speaker**

**H. Marlene O'Toole  
Chair**



## AGENDA

Education Committee  
Tuesday, April 16, 2013  
9:00 AM– 10:00 AM  
102 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill(s):
  - CS/CS/HB 283 Fine Arts Courses by McBurney
  - HB 559 Public School Instruction by Patronis
  - HB 1031 Instructional Materials for K-12 Public Education by Porter
  - HB 1285 Tallahassee-Leon County Civic Center Authority, Leon County by Williams, A.
- IV. Closing Remarks and Adjournment

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Education Committee

**Start Date and Time:** Tuesday, April 16, 2013 09:00 am  
**End Date and Time:** Tuesday, April 16, 2013 10:00 am  
**Location:** Reed Hall (102 HOB)  
**Duration:** 1.00 hrs

**Consideration of the following bill(s):**

CS/CS/HB 283 Fine Arts Courses by Education Appropriations Subcommittee, K-12 Subcommittee, McBurney  
HB 559 Public School Instruction by Patronis, Ford  
HB 1031 Instructional Materials for K-12 Public Education by Porter  
HB 1285 Tallahassee-Leon County Civic Center Authority, Leon County by Williams, A.

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by a member who is not a member of the subcommittee shall be 6:00 pm, Monday, April 15, 2013.

By request of the Chair, all subcommittee members are asked to have amendments to bills on the agenda submitted by 6:00 pm, Monday, April 15, 2013.

**NOTICE FINALIZED on 04/12/2013 15:58 by Gilliam.Ann**





Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Education Committee  
2 Representative McBurney offered the following:

3  
4 **Amendment**

5 Remove line 23 and insert:

6 Sunshine State Standards. The report shall be posted on the  
7 Department of Education website and shall be updated annually.  
8

1                                   A bill to be entitled  
 2           An act relating to fine arts courses; creating s.  
 3           1003.499, F.S.; requiring the Commissioner of  
 4           Education to prepare an annual report relating to  
 5           student access to and participation in fine arts  
 6           courses and information on educators and instruction  
 7           in such courses; amending s. 1008.34, F.S.; providing  
 8           for bonus points for student participation and  
 9           performance in fine arts to be used in the school  
 10          grading system; providing an effective date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14          Section 1. Section 1003.499, Florida Statutes, is created  
 15          to read:

16                1003.499 Fine arts report.—The Commissioner of Education  
 17                shall prepare an annual report which must include a description,  
 18                based on annual reporting by schools, of student access to and  
 19                participation in fine arts courses, the number and certification  
 20                status of educators providing instruction in the courses, and  
 21                the manner in which schools are providing the core curricular  
 22                content for fine arts established in the Next Generation  
 23                Sunshine State Standards.

24          Section 2. Paragraph (d) is added to subsection (3) of  
 25          section 1008.34, Florida Statutes, to read:

26                1008.34 School grading system; school report cards;  
 27                district grade.—

28                (3) DESIGNATION OF SCHOOL GRADES.—

CS/CS/HB 283

2013

29        (d) Contingent upon funding provided in the General  
30 Appropriations Act and upon State Board of Education approval of  
31 a statewide, standardized end-of-course assessment for each fine  
32 arts course, the grade of a school comprised of any of grades  
33 kindergarten through grade 12 shall include up to 10 bonus  
34 points, as determined by the Department of Education, for the  
35 participation rate and the performance of students who are  
36 enrolled in fine arts courses, which are visual arts, music,  
37 dance, and theatre courses.



38        Section 3. This act shall take effect July 1, 2013.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 283 Public School Student Participation in Fine Arts Courses

**SPONSOR(S):** Education Appropriations Subcommittee, McBurney and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 428

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N, As CS	Beagle	Ahearn
2) Education Appropriations Subcommittee	11 Y, 0 N, As CS	Seifert	Heflin
3) Education Committee		Beagle 	Mizereck 

### SUMMARY ANALYSIS

Florida public schools, including charter schools, earn a school grade of A through F based upon student achievement data from statewide, standardized assessments. A school's grade is calculated based upon points earned for student achievement scores on the Florida Comprehensive Assessment Test in Reading, Mathematics, Science, and Writing, the Florida Alternate Assessment, and statewide, standardized end-of-course (EOC) assessments; student learning gains in reading and mathematics; and the improvement of the lowest 25 percent of students in the school in reading and mathematics. School grades for middle schools include an additional component measuring middle school students' participation and performance on high school level EOC assessments. High school grades are calculated using additional components such as graduation rates, student participation and performance in accelerated courses, and postsecondary readiness of on-time graduates as measured by the SAT, the ACT, the Postsecondary Education Readiness Test, or the common placement test.

Student participation rates and performance in fine arts courses are not currently factored into school grades.

The bill requires, contingent upon funding provided in the General Appropriations Act and upon State Board of Education approval of a statewide, standardized end-of-course assessment for each fine arts course, the grade of a school comprised of any of grades kindergarten through grade 12 shall include up to 10 bonus points, as determined by the Department of Education, for the participation rate and the performance of students who are enrolled in fine arts courses, which are visual arts, music, dance, and theatre courses.

The bill requires DOE to prepare an annual report which must include a description, based on annual reporting by schools, of student access to and participation in fine arts courses, the number and certification status of educators providing instruction in the courses, and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards.

The bill does not have a fiscal impact on state or local governments.

The bill takes effect July 1, 2013.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **School Grades**

Florida public schools, including charter schools, earn a school grade of A through F based upon student achievement data from statewide standardized assessments.<sup>1</sup> A school's grade is calculated based upon points earned for student achievement scores on the Florida Comprehensive Assessment Test in Reading, Mathematics, Science, and Writing, the Florida Alternate Assessment, and statewide, standardized end-of-course (EOC) assessments; student learning gains in reading and mathematics; and the improvement of the lowest 25 percent of students in the school in reading and mathematics.<sup>2</sup> School grades for middle schools include an additional component measuring middle school students' participation and performance on high school level EOC assessments. High school grades are calculated using additional components such as graduation rates, student participation and performance in accelerated courses, and postsecondary readiness of on-time graduates as measured by the SAT, the ACT, the Postsecondary Education Readiness Test, or the common placement test.<sup>3</sup>

Student participation rates and performance in fine arts courses are not currently factored into school grades.

##### Effect of Proposed Changes

The bill requires each K-12 public school's grade to include a maximum of 10 bonus points, as determined by the Department of Education (DOE), for the student participation rate and, contingent upon funding being provided in the General Appropriations Act and upon the State Board of Education approving a statewide, standardized end-of-course assessment for each fine arts course, the performance of students who are enrolled in fine arts courses, which are visual arts, music, dance, and theatre courses.

The bill requires DOE to prepare an annual report which must include:

- a description, based on annual reporting by schools,
- of student access to and participation in fine arts courses,
- the number and certification status of educators providing instruction in the courses, and
- the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards.

The bill could increase student participation in fine arts courses; however, it may also induce schools to over-fill these courses solely to obtain the school grade bonus points, as class size caps do not apply to

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<sup>1</sup> Section 1008.34(3)(b)3., F.S. To receive a school grade, a school must have at least 30 full-year-enrolled students with valid Florida Comprehensive Assessment Test (FCAT) scores in reading for the current and prior years and at least 30 full-year-enrolled students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade. For high schools, there must be at least 10 eligible students with current and prior year math scores (rather than 30) for the school to qualify for a grade in 2012 and at least 20 students with current and prior year math scores to qualify for a grade beginning in 2013. Department of Juvenile Justice schools are not graded, and alternative schools that provide dropout prevention and academic intervention services have the option of earning a school grade or a school improvement rating. If an alternative school chooses to receive a school improvement rating instead of a school grade, student performance is also included in the school grade of the students' home school. Rule 6A-1.09981(3)(a), F.A.C.; ss. 1008.34(3)(a)1. and (c)3. and 1008.34(3)(c)3., F.S.

<sup>2</sup> Section 1008.34(3)(b)1., F.S.; rule 6A-1.09981(1)(a)1.a.-c., F.A.C.

<sup>3</sup> Section 1008.34(3)(b)3., F.S.; Florida Department of Education, *Florida School Grades* (July 2012), available at <http://schoolgrades.fldoe.org/pdf/1112/SchoolGradesPressPacket.pdf>.

fine arts classes. This could dilute the quality of fine arts instruction or lead to the enrollment of students in arts courses regardless of their interests or willingness to do so.

**B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1003.499, F.S., requires an annual report on Fine Arts.

**Section 2.** Amends s. 1008.34, F.S., requiring DOE to approve, contingent upon funding, an EOC for each fine arts course; relating to the School grading system; requires bonus points for fine arts participation rates and performance of students in the calculation of school grades.

**Section 3.** Provides an effective date of July 1, 2013.

**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:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

Implementation of the changes to the school grade calculation are contingent upon funding being provided and upon the State Board of Education approving a statewide, standardized end-of-course assessment for each fine arts course. There are no funds provided in the FY 2013-14 General Appropriations Act for fine arts end-of-course assessments.

**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:**

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 27, 2013, the K-12 Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Limited the degree to which the participation rate of students who are enrolled in fine arts courses is factored into the calculation of school grades to up to 10 bonus points, whereas the bill did not specify how fine arts participation would be weighted in the calculation.
- Removed provisions requiring that information regarding fine arts participation and access be included in the commissioner's annual student performance report.
- Added provisions requiring DOE to annually report data comparing the performance of students who participate in fine arts courses with those who do not participate in such courses and creating an advisory committee to develop criteria for "Arts for All Students" model school and school district designations.

On April 9, 2013, the Education Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Requires DOE to prepare an annual report which must include a description, based on annual reporting by schools, of student access to and participation in fine arts courses, the number and certification status of educators providing instruction in the courses, and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards.
- Requires, contingent upon funding provided in the General Appropriations Act and upon State Board of Education approval of a statewide, standardized end-of-course assessment for each fine arts course, the grade of a school comprised of any of grades kindergarten through grade 12 shall include up to 10 bonus points, as determined by the Department of Education, for the participation rate and the performance of students who are enrolled in fine arts courses, which are visual arts, music, dance, and theatre courses.



1                                   A bill to be entitled  
 2           An act relating to public school instruction; amending  
 3           s. 1003.42, F.S.; requiring that instructional staff  
 4           of public schools provide instruction to students  
 5           about the terrorist attacks occurring on September 11,  
 6           2001, and the impact of those events; providing an  
 7           effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Paragraph (u) is added to subsection (2) of  
 12           section 1003.42, Florida Statutes, to read:

13           1003.42 Required instruction.—

14           (2) Members of the instructional staff of the public  
 15           schools, subject to the rules of the State Board of Education  
 16           and the district school board, shall teach efficiently and  
 17           faithfully, using the books and materials required that meet the  
 18           highest standards for professionalism and historic accuracy,  
 19           following the prescribed courses of study, and employing  
 20           approved methods of instruction, the following:

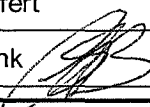

21           (u) The events surrounding the terrorist attacks occurring  
 22           on September 11, 2001, and the impact of those events on the  
 23           nation.

24  
 25           The State Board of Education is encouraged to adopt standards  
 26           and pursue assessment of the requirements of this subsection.

27           Section 2. This act shall take effect July 1, 2013.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 559 Public School Instruction  
**SPONSOR(S):** Ford and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 332

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	11 Y, 0 N	Brink	Ahearn
2) Education Appropriations Subcommittee	11 Y, 0 N	Seifert	Heflin
3) Education Committee		Brink 	Mizereck 

### SUMMARY ANALYSIS

The bill requires public schools to provide instruction on the events surrounding the terrorist attacks of September 11, 2001, and the impact of those events on the nation.

There is no anticipated fiscal impact associated with this bill. See Fiscal Comments.

The bill provides an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

Section 1003.42(2), F.S., establishes components of required instruction for public school students. Instructional staff must teach the following content:

- The history and content of the Declaration of Independence, to include specific consents which include in part including national sovereignty, and natural law;
- The history, meaning, significance, and effect of the provisions of the Constitution of the United States with emphasis on each of the ten amendments that make up the Bill of Rights;
- The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers;
- Flag education, including proper flag display and flag salute;
- The elements of civil government, including the primary functions of and interrelationships between the Federal Government, the state, and its counties, municipalities, school districts, and special districts;
- The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present;
- The history of the Holocaust;
- The history of African Americans;
- The elementary principles of agriculture;
- The true effects of all alcoholic beverages and narcotics upon the human body and mind;
- Kindness to animals;
- The history of the state;
- The conservation of natural resources;
- Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including in part, an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; and dating violence and abuse;
- Such additional materials, subjects, courses, or fields in such grades as are prescribed by law or by rules of the State Board of Education and the district school board in fulfilling the requirements of law;
- The study of Hispanic contributions to the United States;
- The study of women's contributions to the United States;
- The nature and importance of free enterprise to the United States economy;
- A character-development program in kindergarten through grade 12; and
- In order to encourage patriotism, the sacrifices that veterans have made in serving our country and protecting democratic values worldwide.

The law does not establish any particular grade level or courses within which instruction on these topics must be provided. However, the Department of Education takes steps to ensure that the enumerated content is taught in public schools.

Current law does not require instruction on the impact of September 11, 2001, on our nation; however, the Department of Education's website includes multiple resources to support educators and students in researching and understanding the effects of the event.<sup>1</sup>

Additionally, federal law designates September 11, 2001, as Patriot Day in honor of the individuals who lost their lives as a result of the terrorist attacks against the United States on September 11, 2001.<sup>2</sup>

Effect of Proposed Changes:

The bill requires that the events surrounding the terrorist attacks of September 11, 2001, and the impact of those events on the nation be included in the required instruction for public school students. Although the bill does not include a specific timeframe for the required instruction, school districts would most likely incorporate a remembrance of these events in instruction and school-related activities on Patriot Day, September 11, of each year.

**B. SECTION DIRECTORY:**

Section 1. Creates s. 1003.42(2)(u), F.S.; requiring that instructional staff of public schools provide instruction to students about the terrorist attacks occurring on September 11, 2001, and the impact of those events.

Section 2. Provides an effective date of July 1, 2013.

**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:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

There is no anticipated fiscal impact associated with this bill. Providing instruction as required by the bill would not necessitate expenditure of funds because free resources are available for use, such as those listed by the Department of Education on its website. If districts choose to purchase additional

<sup>1</sup> See Florida Department of Education, Patriot Day and National Day of Service and Remembrance, available at <http://www.fldoe.org/bii/humanities/pdc.asp> (last visited March 12, 2013).

<sup>2</sup> Public Law 107-89. See 36 U.S.C. s. 144.



instructional materials, funds received pursuant to the instructional materials categorical under the Florida Education Finance Program (FEFP) formula can be used.

### **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:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.





Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Education Committee  
 2 Representative Porter offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (b) of subsection (1) and subsection  
 7 (2) of section 1006.28, Florida Statutes, are amended to read:  
 8 1006.28 Duties of district school board, district school  
 9 superintendent; and school principal regarding K-12  
 10 instructional materials.—

11 (1) DISTRICT SCHOOL BOARD.—The district school board has  
 12 the duty to provide adequate instructional materials for all  
 13 students in accordance with the requirements of this part. The  
 14 term "adequate instructional materials" means a sufficient  
 15 number of student or site licenses or sets of materials that are  
 16 available in bound, unbound, kit, or package form and may  
 17 consist of hardbacked or softbacked textbooks, electronic  
 18 content, consumables, learning laboratories, manipulatives,  
 19 electronic media, and computer courseware or software that serve



Amendment No. 1

20 as the basis for instruction for each student in the core  
21 courses of mathematics, language arts, social studies, science,  
22 reading, and literature. The district school board has the  
23 following specific duties:

24 (b) Instructional materials.—Provide for proper  
25 requisitioning, distribution, accounting, storage, care, and use  
26 of all instructional materials and furnish such other  
27 instructional materials as may be needed. The district school  
28 board shall ensure that instructional materials used in the  
29 district are consistent with the district goals and objectives  
30 and the course descriptions established in ~~curriculum frameworks~~  
31 ~~adopted by~~ rule of the State Board of Education, as well as with  
32 the state and district performance standards provided for in s.  
33 1001.03(1).

34 (2) DISTRICT SCHOOL SUPERINTENDENT.—

35 (a) The district school superintendent has the duty to  
36 recommend such plans for improving, providing, distributing,  
37 accounting for, and caring for instructional materials and other  
38 instructional aids as will result in general improvement of the  
39 district school system, as prescribed in this part, in  
40 accordance with adopted district school board rules prescribing  
41 the duties and responsibilities of the district school  
42 superintendent regarding the requisition, purchase, receipt,  
43 storage, distribution, use, conservation, records, and reports  
44 of, and management practices and property accountability  
45 concerning, instructional materials, and providing for an  
46 evaluation of any instructional materials to be requisitioned  
47 that have not been used previously in the district's schools.



Amendment No. 1

48 The district school superintendent must keep adequate records  
49 and accounts for all financial transactions for funds collected  
50 pursuant to subsection (3), as a component of the educational  
51 service delivery scope in a school district best financial  
52 management practices review under s. 1008.35.

53 (b) Beginning in the 2013-2014 school year, each district  
54 school superintendent shall certify to the department by March  
55 31 of each year that all core instructional materials used by  
56 the district are aligned with applicable state standards. A list  
57 of the state-approved or district-approved core instructional  
58 materials that will be used or purchased for use by the school  
59 district shall be included in the certification ~~notify the~~  
60 ~~department by April 1 of each year the state-adopted~~  
61 ~~instructional materials that will be requisitioned for use in~~  
62 ~~his or her school district. The notification shall include a~~  
63 ~~district school board plan for instructional materials use to~~  
64 ~~assist in determining if adequate instructional materials have~~  
65 ~~been requisitioned.~~

66 (c) Each principal shall verify that all instructional  
67 materials are fully and properly accounted for as prescribed by  
68 adopted rules of the district school board.

69 Section 2. Section 1006.282, Florida Statutes, is  
70 repealed.

71 Section 3. Section 1006.283, Florida Statutes, is created  
72 to read:

73 1006.283 District school board instructional materials  
74 review process.—



## Amendment No. 1

75 (1) A school board or consortium of school districts may  
76 implement an instructional materials program that includes the  
77 review, approval, and purchasing of instructional materials.  
78 Beginning in the 2013-2014 school year, the district school  
79 superintendent shall certify to the department by March 31 of  
80 each year that all core instructional materials used by the  
81 district are aligned with applicable state standards. Included  
82 in the certification shall be a list of the core instructional  
83 materials that will be used or purchased for use by the school  
84 district.

85 (2) The school board shall adopt rules implementing the  
86 district's instructional materials program which must include,  
87 but need not be limited to:

88 (a) Its review and purchase process.

89 (b) Identification of a review cycle for instructional  
90 materials.

91 (c) The duties and qualifications of the instructional  
92 materials reviewers.

93 (d) The requirements for an affidavit made by a district  
94 instructional materials reviewer, which substantially includes  
95 the requirements of s. 1006.30.

96 (e) Compliance with s. 1006.32, relating to prohibited  
97 acts.

98 (f) A process that certifies the accuracy of instructional  
99 materials.

100 (g) The incorporation of applicable requirements of s.  
101 1006.38, relating to the duties, responsibilities, and  
102 requirements of publishers of instructional materials.



Amendment No. 1

103       (h) The process by which instructional materials will be  
104 purchased, including advertising, bidding, and purchasing  
105 requirements.

106       (3) (a) The school board may set and collect fees from  
107 publishers participating in the instructional materials approval  
108 process. The amount assessed and collected shall be advertised  
109 and must be reported to the district school board. The fees may  
110 not exceed the fees that are assessed for those materials  
111 submitted for review by the state as defined by the State Board  
112 of Education. Any fees collected for this process shall be  
113 allocated for the support of the review process and maintained  
114 in a separate line item for auditing purposes. Fees may not be  
115 collected from publishers to review instructional materials that  
116 are approved by the department and placed on the department's  
117 website.

118       (b) The fees shall be used to cover the actual cost of  
119 substitute teachers for each workday that a member of a school  
120 district's instructional staff is absent from his or her  
121 assigned duties for the purpose of rendering service as an  
122 instructional materials reviewer. In addition, each reviewer may  
123 be paid a stipend and is entitled to reimbursement for travel  
124 expenses and per diem in accordance with s. 112.061 for actual  
125 service in meetings.

126       (4) Instructional materials that have been reviewed by the  
127 district instructional materials reviewers and approved must  
128 have been determined to align with all applicable state  
129 standards pursuant to s. 1003.41 and the requirements in s.  
130 1006.31. The district school superintendent must annually



Amendment No. 1

131 certify to the department that the district's all core  
132 instructional materials are aligned with all applicable state  
133 standards.

134 (5) A publisher that offers instructional materials to a  
135 district school board must provide such materials at a price  
136 which, including all costs of electronic transmission, does not  
137 exceed the lowest price at which the publisher offers such  
138 instructional materials for approval or sale to any state or  
139 school district in the United States.

140 (6) A publisher shall reduce automatically the price of  
141 the instructional materials to the district school board to the  
142 extent that reductions are made elsewhere in the United States.

143 Section 4. Section 1006.29, Florida Statutes, is amended  
144 to read:

145 1006.29 Department of Education ~~State~~ instructional  
146 materials reviewers.-

147 (1) For purposes of this section, the term "instructional  
148 materials" means items that have intellectual content and that,  
149 by design, serve as a major tool or for assisting in the  
150 instruction of a subject or course.

151 (2) ~~(1)~~(a) The commissioner shall determine annually the  
152 areas in which instructional materials shall be submitted for  
153 approval ~~adoption~~, taking into consideration the desires of the  
154 district school boards. ~~The commissioner shall also determine~~  
155 ~~the number of titles to be adopted in each area.~~

156 (b) ~~By April 15 of each school year,~~ The department  
157 ~~commissioner~~ shall appoint five reviewers for each submission by  
158 ~~a publisher or district school board~~ three state or national





Amendment No. 1

159 ~~experts in the content areas submitted for adoption~~ to review  
160 for approval the instructional materials and evaluate the  
161 content for alignment with the applicable ~~Next Generation~~  
162 ~~Sunshine~~ state standards. ~~These reviewers shall be designated as~~  
163 ~~state instructional materials reviewers and shall review~~ The  
164 materials shall be evaluated for the level of instructional  
165 support and the accuracy and appropriateness of progression of  
166 introduced content. Instructional materials shall be made  
167 electronically available to the reviewers. The state review of  
168 the instructional materials shall be made by the five reviewers.  
169 Two of the reviewers must be professional content experts, two  
170 must be K-12 educators who are actively engaged in teaching or  
171 in the supervision of teaching in the public elementary, middle,  
172 or high schools and represent the major fields and levels in  
173 which instructional materials are used in the public schools,  
174 and one must be a lay person who is not professionally connected  
175 with education. In the event only four reviewers can be  
176 procured, or if one of the five reviewers is unable to fulfill  
177 his or her responsibilities, the additional reviewer may be a  
178 content expert from the department. As part of the review  
179 process, each reviewer shall be provided training on the  
180 electronic review system. The reviewers shall independently make  
181 recommendations to the commissioner regarding materials that  
182 should be placed on the list of approved materials through an  
183 electronic feedback review system.

184 (c) The department may assess and collect fees in  
185 accordance with s. 1006.34(2). The amount assessed and collected  
186 shall be advertised and must be reported to the State Board of



Amendment No. 1

187 Education. Any fees collected for this process shall be  
188 allocated for the support of the review process, maintained in a  
189 separate account for auditing purposes, and deposited in the  
190 department's Operating Trust Fund.

191 (d) Fees collected under paragraph (c) shall be used to  
192 cover the cost of the review process including the cost of any  
193 meetings and applicable travel and per diem, and the amount paid  
194 by a school district to substitute teachers who fill in for  
195 instructional staff that is absent for the purpose of rendering  
196 service as an instructional materials reviewer. In addition,  
197 each reviewer may be paid a stipend and is entitled to  
198 reimbursement for travel expenses and per diem in accordance  
199 with s. 112.061 for actual service in meetings ~~The initial~~  
200 ~~review of the materials shall be made by only two of the three~~  
201 ~~reviewers. If the two reviewers reach different results, the~~  
202 ~~third reviewer shall break the tie. The reviewers shall~~  
203 ~~independently make recommendations to the commissioner regarding~~  
204 ~~materials that should be placed on the list of adopted materials~~  
205 ~~through an electronic feedback review system.~~

206 (e) ~~(e)~~ The commissioner shall request each district school  
207 superintendent to nominate one classroom teacher or district-  
208 level content supervisor to review two or three of the  
209 submissions recommended by the department ~~state~~ instructional  
210 materials reviewers. School districts shall ensure that these  
211 district reviewers are provided with the support and time  
212 necessary to accomplish a thorough review of the instructional  
213 materials. District reviewers shall independently rate the  
214 recommended submissions on the instructional usability of the



Amendment No. 1

215 resources. District reviewers may be paid a stipend and are  
216 entitled to reimbursement for travel expenses and per diem in  
217 accordance with s. 112.061 for actual service in meetings, if  
218 applicable.

219 (3)(2) For purposes of approving materials ~~state adoption~~,  
220 the term "instructional materials" means items having  
221 intellectual content that by design serve as a major tool or for  
222 assisting in the instruction of a subject or course. These items  
223 may be available in bound, unbound, kit, or package form and may  
224 consist of hardbacked or softbacked textbooks, electronic  
225 content, consumables, learning laboratories, manipulatives,  
226 electronic media, and computer courseware or software. A  
227 publisher or manufacturer providing instructional materials as a  
228 single bundle shall also make the instructional materials  
229 available as separate and unbundled items, each priced  
230 individually. A publisher shall ~~may~~ also offer sections of  
231 ~~state-adopted~~ instructional materials in digital or electronic  
232 versions at reduced rates to districts, schools, and teachers.

233 (4)(3) Beginning in the 2015-2016 academic year, all  
234 approved ~~adopted~~ instructional materials for students in  
235 kindergarten through grade 12 must be provided in an electronic  
236 or digital format. For purposes of this section, the term:

237 (a) "Electronic format" means text-based or image-based  
238 content in a form that is produced on, published by, and  
239 readable on computers or other digital devices and is an  
240 electronic version of a printed book, whether or not any printed  
241 equivalent exists.



Amendment No. 1

242 (b) "Digital format" means text-based or image-based  
243 content in a form that provides the student with various  
244 interactive functions; that can be searched, tagged,  
245 distributed, and used for individualized and group learning;  
246 that includes multimedia content such as video clips,  
247 animations, and virtual reality; and that has the ability to be  
248 accessed at any time and anywhere.

249  
250 The terms do not include electronic or computer hardware even if  
251 such hardware is bundled with software or other electronic  
252 media, nor does it include equipment or supplies.

253 (5)~~(4)~~ The department shall develop a training program for  
254 persons selected to review submitted ~~as state~~ instructional  
255 materials ~~reviewers and school district reviewers~~. The program  
256 shall be structured to assist reviewers in developing the skills  
257 necessary to make valid, culturally sensitive, and objective  
258 decisions regarding the content and rigor of instructional  
259 materials. All persons reviewing ~~serving as~~ instructional  
260 materials ~~reviewers~~ must complete the training program prior to  
261 beginning the review and selection process.

262 (6) By March 1 of each year, the department shall post on  
263 its website a list of department-approved instructional  
264 materials and instructional materials approved by other states  
265 which align with applicable state standards. The list shall be  
266 maintained and updated periodically. The list shall be  
267 comprehensive and include sufficient instructional materials or  
268 major tools to cover all of the core content areas. The posting  
269 must include the purchase price of each product once it is



Amendment No. 1

270 purchased anywhere in the United States. In addition to the  
271 posting, the department shall send school district  
272 administrators periodic updates to the website. District-  
273 approved instructional materials shall also be posted on the  
274 website.

275 Section 5. Section 1006.30, Florida Statutes, is amended  
276 to read:

277 1006.30 Affidavit of Department of Education ~~state~~  
278 instructional materials reviewers.—Before transacting any  
279 business, each department ~~state~~ instructional materials reviewer  
280 shall make an affidavit, to be filed with the department, that:

281 (1) The reviewer will faithfully discharge the duties  
282 imposed upon him or her.

283 (2) The reviewer has no interest in any publishing or  
284 manufacturing organization that produces or sells instructional  
285 materials.

286 (3) The reviewer is in no way connected with the  
287 distribution of the instructional materials.

288 (4) The reviewer does not have any direct or indirect  
289 pecuniary interest in the business or profits of any person  
290 engaged in manufacturing, publishing, or selling instructional  
291 materials designed for use in the public schools.

292 (5) The reviewer will not accept any emolument or promise  
293 of future reward of any kind from any publisher or manufacturer  
294 of instructional materials or his or her agent or anyone  
295 interested in, or intending to bias his or her judgment in any  
296 way in, the selection of any materials to be approved ~~adopted~~.



Amendment No. 1

297 (6) The reviewer understands that it is unlawful to  
298 discuss matters relating to instructional materials submitted  
299 for approval ~~adoption~~ with any agent of a publisher or  
300 manufacturer of instructional materials, either directly or  
301 indirectly, except during the period when the publisher or  
302 manufacturer is providing a presentation for the reviewer during  
303 his or her review of the instructional materials submitted for  
304 approval ~~adoption~~.

305 Section 6. Section 1006.31, Florida Statutes, is amended  
306 to read:

307 1006.31 Duties of the Department of Education and school  
308 district ~~each state~~ instructional materials reviewer.—The duties  
309 of the ~~each state~~ instructional materials reviewer are:

310 (1) PROCEDURES.—To adhere to procedures prescribed by the  
311 department or the district for evaluating instructional  
312 materials submitted by publishers and manufacturers in each  
313 review for approval ~~adoption~~.

314 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate  
315 carefully all instructional materials submitted, in order to  
316 ascertain which instructional materials, if any, submitted for  
317 consideration implement the selection criteria developed by the  
318 department or the district and those curricular objectives  
319 included within applicable performance standards provided for in  
320 s. 1001.03(1).

321 (a) When evaluating ~~recommending~~ instructional materials  
322 for use in the schools, each reviewer shall include only  
323 instructional materials ~~that~~ accurately portray the ethnic,  
324 socioeconomic, cultural, and racial diversity of our society,



Amendment No. 1

325 including men and women in professional, career, and executive  
326 roles, and the role and contributions of the entrepreneur and  
327 labor in the total development of this state and the United  
328 States.

329 (b) When evaluating ~~recommending~~ instructional materials  
330 for use in the schools, each reviewer shall include only  
331 materials that accurately portray, whenever appropriate,  
332 humankind's place in ecological systems, including the necessity  
333 for the protection of our environment and conservation of our  
334 natural resources and the effects on the human system of the use  
335 of tobacco, alcohol, controlled substances, and other dangerous  
336 substances.

337 (c) When evaluating ~~recommending~~ instructional materials  
338 for use in the schools, each reviewer shall require such  
339 materials as he or she deems necessary and proper to encourage  
340 thrift, fire prevention, and humane treatment of people and  
341 animals.

342 (d) When evaluating ~~recommending~~ instructional materials  
343 for use in the schools, each reviewer shall require, when  
344 appropriate to the comprehension of students, that materials for  
345 social science, history, or civics classes contain the  
346 Declaration of Independence and the Constitution of the United  
347 States. A reviewer may not recommend any instructional materials  
348 for use in the schools which contain any matter reflecting  
349 unfairly upon persons because of their race, color, creed,  
350 national origin, ancestry, gender, or occupation.

351 (e) When evaluating instructional materials, library  
352 media, and other reading material for use in the schools, a



Amendment No. 1

353 reviewer shall use the following standards to determine the  
354 propriety of the material:

355 1. The age of students who normally could be expected to  
356 have access to the material.

357 2. The educational purpose to be served by the material.  
358 In considering instructional materials for classroom use,  
359 priority shall be given to the selection of materials that  
360 encompass the state and district school board performance  
361 standards provided for in s. 1001.03(1) and include the  
362 instructional objectives contained within the course  
363 descriptions established in rule by the State Board of  
364 Education.

365 3. The degree to which the material would be supplemented  
366 and explained by mature classroom instruction as part of a  
367 normal classroom instructional program.

368 4. The degree to which the material represents the broad  
369 racial, ethnic, socioeconomic, and cultural diversity of  
370 students in the state.

371  
372 Any instructional material containing pornography or otherwise  
373 prohibited by s. 847.012 may not be used or made available  
374 within any public school.

375 (c)-(e) Any Instructional material recommended by a each  
376 reviewer for use in the schools shall be, to the satisfaction of  
377 the each reviewer, accurate, objective, and current and suited  
378 to the needs and comprehension of students at their respective  
379 grade levels. Reviewers shall consider for adoption materials





Amendment No. 1

380 developed for academically talented students such as those  
381 enrolled in advanced placement courses.

382 (3) REPORT OF REVIEWERS.—After a thorough study of all  
383 data submitted on each instructional material, to submit an  
384 electronic report to the department. The report shall be made  
385 public and must include responses to each section of the report  
386 format prescribed by the department.

387 Section 7. Section 1006.32, Florida Statutes, is amended  
388 to read:

389 1006.32 Prohibited acts.—

390 (1) A publisher or manufacturer of instructional material,  
391 or any representative thereof, may not offer to give any  
392 emolument, money, or other valuable thing, or any inducement, to  
393 any district school board official or department or district  
394 ~~state~~ instructional materials reviewer to directly or indirectly  
395 introduce, recommend, vote for, or otherwise influence the  
396 approval ~~adoption~~ or purchase of any instructional materials.

397 (2) A district school board official or a department or  
398 district ~~state~~ instructional materials reviewer may not solicit  
399 or accept any emolument, money, or other valuable thing, or any  
400 inducement, to directly or indirectly introduce, recommend, vote  
401 for, or otherwise influence the approval ~~adoption~~ or purchase of  
402 any instructional material.

403 ~~(3) A district school board or publisher may not~~  
404 ~~participate in a pilot program of materials being considered for~~  
405 ~~adoption during the 18-month period before the official adoption~~  
406 ~~of the materials by the commissioner. Any pilot program during~~



Amendment No. 1

407 ~~the first 2 years of the adoption period must have the prior~~  
408 ~~approval of the commissioner.~~

409 (3)~~(4)~~ A ~~Any~~ publisher or manufacturer of instructional  
410 materials or representative thereof or a ~~any~~ district school  
411 board official or department or district ~~state~~ instructional  
412 materials reviewer who violates any provision of this section  
413 commits a misdemeanor of the second degree, punishable as  
414 provided in s. 775.082 or s. 775.083. A ~~Any~~ representative of a  
415 publisher or manufacturer who violates any provision of this  
416 section, in addition to any other penalty, shall be banned from  
417 practicing business in the state for a period of 1 calendar  
418 year.

419 (4)~~(5)~~ This section does not prohibit any publisher,  
420 manufacturer, or agent from supplying, for purposes of  
421 examination, necessary sample copies of instructional materials  
422 to any district school board official or department or district  
423 ~~state~~ instructional materials reviewer.

424 (5)~~(6)~~ This section does not prohibit a district school  
425 board official or department or district ~~state~~ instructional  
426 materials reviewer from receiving sample copies of instructional  
427 materials.

428 (6)~~(7)~~ This section does not prohibit or restrict a  
429 district school board official from receiving royalties or other  
430 compensation, other than compensation paid to him or her as  
431 commission for negotiating sales to district school boards, from  
432 the publisher or manufacturer of instructional materials  
433 written, designed, or prepared by such district school board  
434 official, ~~and adopted by the commissioner or~~ purchased by any



Amendment No. 1

435 district school board. A ~~No~~ district school board official may  
436 not ~~shall be allowed to~~ receive royalties on any materials not  
437 ~~on the state-adopted list~~ purchased for use by his or her  
438 district school board.

439 (7) ~~(8)~~ A district school superintendent, district school  
440 board member, teacher, or other person officially connected with  
441 the government or direction of public schools may not receive  
442 during the months actually engaged in performing duties under  
443 his or her contract any private fee, gratuity, donation, or  
444 compensation, in any manner whatsoever, for promoting the sale  
445 or exchange of any instructional material, map, or chart in any  
446 public school, or be an agent for the sale or the publisher of  
447 any instructional material or reference work, or have a direct  
448 or indirect pecuniary interest in the introduction of any such  
449 instructional material, and any such agency or interest shall  
450 disqualify any person so acting or interested from holding any  
451 district school board employment whatsoever, and the person  
452 commits a misdemeanor of the second degree, punishable as  
453 provided in s. 775.082 or s. 775.083; however, this subsection  
454 does not prevent the approval ~~adoption~~ of any instructional  
455 material written in whole or in part by a Florida author.

456 Section 8. Section 1006.33, Florida Statutes, is repealed.

457 Section 9. Section 1006.34, Florida Statutes, is amended  
458 to read:

459 1006.34 Powers and duties of the State Board of Education  
460 ~~commissioner and the department in~~ evaluating ~~selecting and~~  
461 ~~adopting~~ instructional materials.-



Amendment No. 1

462 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.—The  
463 State Board of Education shall adopt rules prescribing the  
464 procedures by which the department shall evaluate instructional  
465 materials submitted by publishers and manufacturers in each  
466 review for approval ~~adoption~~. Included in these procedures shall  
467 be provisions affording each publisher or manufacturer or his or  
468 her representative an opportunity to provide a live virtual or  
469 in-person presentation to the department ~~state~~ instructional  
470 materials reviewers on the merits of each instructional material  
471 submitted in each review for approval ~~adoption~~.

472 (2) FEES.—The State Board of Education may set and collect  
473 fees from publishers participating in the instructional  
474 materials approval process who request a review of their  
475 submitted materials by the department. The fees set by the State  
476 Board of Education shall specify the amount that may be  
477 collected by the department per submission from publishers for  
478 review. The fees may not exceed the actual costs necessary to  
479 support the cost of reviewing instructional materials,  
480 including, but not limited to, the costs associated with  
481 reviewers. The State Board of Education shall adopt rules  
482 regarding the fees.

483 ~~(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—~~

484 ~~(a) The department shall notify all publishers and~~  
485 ~~manufacturers of instructional materials who have submitted bids~~  
486 ~~that within 3 weeks after the deadline for receiving bids, at a~~  
487 ~~designated time and place, it will open the bids submitted and~~  
488 ~~deposited with it. At the time and place designated, the bids~~  
489 ~~shall be opened, read, and tabulated in the presence of the~~



Amendment No. 1

490 ~~bidders or their representatives. No one may revise his or her~~  
491 ~~bid after the bids have been filed. When all bids have been~~  
492 ~~carefully considered, the commissioner shall, from the list of~~  
493 ~~suitable, usable, and desirable instructional materials reported~~  
494 ~~by the state instructional materials reviewers, select and adopt~~  
495 ~~instructional materials for each grade and subject field in the~~  
496 ~~curriculum of public elementary, middle, and high schools in~~  
497 ~~which adoptions are made and in the subject areas designated in~~  
498 ~~the advertisement. The adoption shall continue for the period~~  
499 ~~specified in the advertisement, beginning on the ensuing April~~  
500 ~~1. The adoption shall not prevent the extension of a contract as~~  
501 ~~provided in subsection (3). The commissioner shall always~~  
502 ~~reserve the right to reject any and all bids. The commissioner~~  
503 ~~may ask for new sealed bids from publishers or manufacturers~~  
504 ~~whose instructional materials were recommended by the state~~  
505 ~~instructional materials reviewers as suitable, usable, and~~  
506 ~~desirable; specify the dates for filing such bids and the date~~  
507 ~~on which they shall be opened; and proceed in all matters~~  
508 ~~regarding the opening of bids and the awarding of contracts as~~  
509 ~~required by this part. In all cases, bids shall be accompanied~~  
510 ~~by a cash deposit or certified check of from \$500 to \$2,500, as~~  
511 ~~the department may direct. The department, in adopting~~  
512 ~~instructional materials, shall give due consideration both to~~  
513 ~~the prices bid for furnishing instructional materials and to the~~  
514 ~~report and recommendations of the state instructional materials~~  
515 ~~reviewers. When the commissioner has finished with the report of~~  
516 ~~the state instructional materials reviewers, the report shall be~~



Amendment No. 1

517 ~~filed and preserved with the department and shall be available~~  
518 ~~at all times for public inspection.~~

519 ~~(b) In the selection of instructional materials, library~~  
520 ~~media, and other reading material used in the public school~~  
521 ~~system, the standards used to determine the propriety of the~~  
522 ~~material shall include:~~

523 ~~1. The age of the students who normally could be expected~~  
524 ~~to have access to the material.~~

525 ~~2. The educational purpose to be served by the material.~~  
526 ~~In considering instructional materials for classroom use,~~  
527 ~~priority shall be given to the selection of materials which~~  
528 ~~encompass the state and district school board performance~~  
529 ~~standards provided for in s. 1001.03(1) and which include the~~  
530 ~~instructional objectives contained within the curriculum~~  
531 ~~frameworks approved by rule of the State Board of Education.~~

532 ~~3. The degree to which the material would be supplemented~~  
533 ~~and explained by mature classroom instruction as part of a~~  
534 ~~normal classroom instructional program.~~

535 ~~4. The consideration of the broad racial, ethnic,~~  
536 ~~socioeconomic, and cultural diversity of the students of this~~  
537 ~~state.~~

538  
539 ~~Any instructional material containing pornography or otherwise~~  
540 ~~prohibited by s. 847.012 may not be used or made available~~  
541 ~~within any public school.~~

542 ~~(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND. As~~  
543 ~~soon as practicable after the commissioner has adopted any~~  
544 ~~instructional materials and all bidders that have secured the~~



Amendment No. 1

545 ~~adoption of any instructional materials have been notified~~  
546 ~~thereof by registered letter, the department shall prepare a~~  
547 ~~contract in proper form with every bidder awarded the adoption~~  
548 ~~of any instructional materials. Each contract shall be executed~~  
549 ~~by the commissioner, one copy to be kept by the contractor and~~  
550 ~~one copy to be filed with the department. After giving due~~  
551 ~~consideration to comments by the district school boards, the~~  
552 ~~commissioner, with the agreement of the publisher, may extend or~~  
553 ~~shorten a contract period for a period not to exceed 2 years;~~  
554 ~~and the terms of any such contract shall remain the same as in~~  
555 ~~the original contract. Any publisher or manufacturer to whom any~~  
556 ~~contract is let under this part must give bond in such amount as~~  
557 ~~the department requires, payable to the state, conditioned for~~  
558 ~~the faithful, honest, and exact performance of the contract. The~~  
559 ~~bond must provide for the payment of reasonable attorney's fees~~  
560 ~~in case of recovery in any suit thereon. The surety on the bond~~  
561 ~~must be a guaranty or surety company lawfully authorized to do~~  
562 ~~business in the state; however, the bond shall not be exhausted~~  
563 ~~by a single recovery but may be sued upon from time to time~~  
564 ~~until the full amount thereof is recovered, and the department~~  
565 ~~may at any time, after giving 30 days' notice, require~~  
566 ~~additional security or additional bond. The form of any bond or~~  
567 ~~bonds or contract or contracts under this part shall be prepared~~  
568 ~~and approved by the department. At the discretion of the~~  
569 ~~department, a publisher or manufacturer to whom any contract is~~  
570 ~~let under this part may be allowed a cash deposit in lieu of a~~  
571 ~~bond, conditioned for the faithful, honest, and exact~~  
572 ~~performance of the contract. The cash deposit, payable to the~~



Amendment No. 1

573 ~~department, shall be placed in the Textbook Bid Trust Fund. The~~  
574 ~~department may recover damages on the cash deposit given by the~~  
575 ~~contractor for failure to furnish instructional materials, the~~  
576 ~~sum recovered to inure to the General Revenue Fund.~~

577 ~~(4) REGULATIONS GOVERNING THE CONTRACT. The department~~  
578 ~~may, from time to time, take any necessary actions, consistent~~  
579 ~~with this part, to secure the prompt and faithful performance of~~  
580 ~~all instructional materials contracts; and if any contractor~~  
581 ~~fails or refuses to furnish instructional materials as provided~~  
582 ~~in this part or otherwise breaks his or her contract, the~~  
583 ~~department may sue on the required bond in the name of the~~  
584 ~~state, in the courts of the state having jurisdiction, and~~  
585 ~~recover damages on the bond given by the contractor for failure~~  
586 ~~to furnish instructional materials, the sum recovered to inure~~  
587 ~~to the General Revenue Fund.~~

588 ~~(5) RETURN OF DEPOSITS.—~~

589 ~~(a) The successful bidder shall be notified by registered~~  
590 ~~mail of the award of contract and shall, within 30 days after~~  
591 ~~receipt of the contract, execute the proper contract and post~~  
592 ~~the required bond. When the bond and contract have been~~  
593 ~~executed, the department shall notify the Chief Financial~~  
594 ~~Officer and request that a warrant be issued against the~~  
595 ~~Textbook Bid Trust Fund payable to the successful bidder in the~~  
596 ~~amount deposited pursuant to this part. The Chief Financial~~  
597 ~~Officer shall issue and forward the warrant to the department~~  
598 ~~for distribution to the bidder.~~

599 ~~(b) At the same time or prior thereto, the department~~  
600 ~~shall inform the Chief Financial Officer of the names of the~~





Amendment No. 1

601 ~~unsuccessful bidders. Upon receipt of such notice, the Chief~~  
602 ~~Financial Officer shall issue warrants against the Textbook Bid~~  
603 ~~Trust Fund payable to the unsuccessful bidders in the amounts~~  
604 ~~deposited pursuant to this part and shall forward the warrants~~  
605 ~~to the department for distribution to the unsuccessful bidders.~~

606 ~~(c) One copy of each contract and an original of each bid,~~  
607 ~~whether accepted or rejected, shall be preserved with the~~  
608 ~~department for at least 3 years after the termination of the~~  
609 ~~contract.~~

610 ~~(6) DEPOSITS FORFEITED. If any successful bidder fails or~~  
611 ~~refuses to execute contract and bond within 30 days after~~  
612 ~~receipt of the contract, the cash deposit shall be forfeited to~~  
613 ~~the state and placed by the Chief Financial Officer in the~~  
614 ~~General Revenue Fund.~~

615 ~~(7) FORFEITURE OF CONTRACT AND BOND. If any publisher or~~  
616 ~~manufacturer of instructional materials fails or refuses to~~  
617 ~~furnish instructional materials as provided in the contract, the~~  
618 ~~publisher's or manufacturer's bond is forfeited and the~~  
619 ~~commissioner must make another contract.~~

620 Section 10. Section 1006.35, Florida Statutes, is amended  
621 to read:

622 1006.35 Accuracy of instructional materials.—

623 (1) In addition to relying on statements of publishers or  
624 manufacturers of instructional materials, the commissioner may  
625 conduct or cause to be conducted an independent investigation to  
626 determine the accuracy of approved ~~state-adopted~~ instructional  
627 materials.



Amendment No. 1

628 (2) When errors in approved ~~state-adopted~~ materials are  
629 confirmed, the publisher or manufacturer of the materials shall  
630 provide to each district school board that has purchased the  
631 materials the corrections in a format approved by the  
632 department.

633 (3) The commissioner may remove materials from the list of  
634 approved ~~state-adopted~~ materials:

635 (a) If he or she finds that the content is in error and  
636 the publisher or manufacturer refuses to correct the error when  
637 notified by the department.

638 (b) ~~(4) The commissioner may remove materials from the list~~  
639 ~~of state-adopted materials~~ At the request of the publisher or  
640 manufacturer if, in the commissioner's ~~his or her~~ opinion, there  
641 is no material impact on the state's education goals.

642 (c) If the materials do not align with all applicable  
643 state standards.

644 (4) If the commissioner removes materials from the list of  
645 approved materials, the district may not purchase them for use  
646 in core content areas.

647 Section 11. Section 1006.36, Florida Statutes, is amended  
648 to read:

649 1006.36 State review cycle ~~Term of adoption~~ for  
650 instructional materials.-

651 (1) The state review cycle ~~term of adoption~~ of any  
652 instructional materials shall ~~must~~ be a 5-year period ~~beginning~~  
653 ~~on April 1 following the adoption~~, except that the commissioner  
654 may approve alternative schedules ~~terms of adoption~~ of less than  
655 5 years for materials in content areas which require more



Amendment No. 1

656 frequent revision. ~~Any contract for instructional materials may~~  
657 ~~be extended as prescribed in s. 1006.34(3).~~

658 (2) The department shall publish annually an official  
659 schedule of subject areas to be called for review ~~adoption~~ for  
660 each of the succeeding 2 years, and a tentative schedule for  
661 years 3, 4, and 5. If extenuating circumstances warrant, the  
662 commissioner may add one or more subject areas to the official  
663 schedule, in which event the commissioner shall develop criteria  
664 for such additional subject area or areas and make them  
665 available to publishers or manufacturers as soon as practicable  
666 before the date on which submission for review is ~~bids are~~ due.  
667 The schedule shall be developed so as to promote balance among  
668 the subject areas so that the required expenditure for new  
669 instructional materials is approximately the same each year in  
670 order to maintain curricular consistency.

671 Section 12. Section 1006.37, Florida Statutes, is amended  
672 to read:

673 1006.37 Requisition of instructional materials from  
674 publisher's depository.-

675 ~~(1)~~ The district school superintendent may ~~shall~~  
676 requisition approved ~~adopted~~ instructional materials from the  
677 depository of the publisher with whom a contract has been made.  
678 ~~However, the superintendent shall requisition current~~  
679 ~~instructional materials to provide each student with a textbook~~  
680 ~~or other materials as a major tool of instruction in core~~  
681 ~~courses of the subject areas specified in s. 1006.40(2). These~~  
682 ~~materials must be requisitioned within the first 2 years of the~~  
683 ~~adoption cycle, except for instructional materials related to~~



Amendment No. 1

684 ~~growth of student membership or instructional materials~~  
685 ~~maintenance needs. The superintendent may requisition~~  
686 ~~instructional materials in the core subject areas specified in~~  
687 ~~s. 1006.40(2) that are related to growth of student membership~~  
688 ~~or instructional materials maintenance needs during the 3rd,~~  
689 ~~4th, 5th, and 6th years of the original contract period.~~

690 ~~(2) The district school superintendent shall verify that~~  
691 ~~the requisition is complete and accurate and order the~~  
692 ~~depository to forward to him or her the adopted instructional~~  
693 ~~materials shown by the requisition. The depository shall prepare~~  
694 ~~an invoice of the materials shipped, including shipping charges,~~  
695 ~~and mail it to the superintendent to whom the shipment is being~~  
696 ~~made. The superintendent shall pay the depository within 60 days~~  
697 ~~after receipt of the requisitioned materials from the~~  
698 ~~appropriation for the purchase of adopted instructional~~  
699 ~~materials.~~

700 Section 13. 1006.38, Florida Statutes, is amended to read:

701 1006.38 Duties, responsibilities, and requirements of  
702 instructional materials publishers and manufacturers.—This  
703 section applies to both the state and district approval  
704 processes. Publishers and manufacturers of instructional  
705 materials, or their representatives, shall:

706 (1) Comply with all provisions of this part.

707 (2) Electronically deliver fully developed sample copies  
708 of all instructional materials upon which reviews ~~bids~~ are based  
709 to the department pursuant to procedures adopted by the State  
710 Board of Education.



Amendment No. 1

711 (3) ~~Submit, at a time designated in s. 1006.33,~~ the  
712 following information:

713 (a) Detailed specifications of the physical  
714 characteristics of the instructional materials, including any  
715 software or technological tools required for use by the  
716 district, school, teachers, or students. The publisher or  
717 manufacturer shall comply with these specifications if the  
718 instructional materials are approved ~~adopted~~ and purchased in  
719 completed form.

720 (b) Evidence that the publisher or manufacturer has  
721 provided materials that address the performance standards  
722 provided for in s. 1001.03(1) and that can be accessed through  
723 the district's local instructional improvement system and a  
724 variety of electronic, digital, and mobile devices.

725 (c) Evidence that the instructional materials include  
726 specific references to statewide standards in the teacher's  
727 manual and incorporate such standards into chapter tests or the  
728 assessments. Beginning in the 2013-2014 adoption year, the  
729 statewide standards shall not be included at the point of  
730 student use.

731 (5) Furnish the instructional materials offered by them at  
732 a price in the state which, including all costs of electronic  
733 transmission, may not exceed the lowest price at which they  
734 offer such instructional materials for approval ~~adoption~~ or sale  
735 to any state or school district in the United States.

736 (6) Reduce automatically the price of the instructional  
737 materials to any district school board to the extent that  
738 reductions are made elsewhere in the United States.



Amendment No. 1

739 (7) Provide any instructional materials free of charge in  
740 the state to the same extent as they are provided free of charge  
741 to any state or school district in the United States.

742 (8) Guarantee that all copies of any instructional  
743 materials sold in this state will be at least equal in quality  
744 to the copies of such instructional materials that are sold  
745 elsewhere in the United States and will be kept revised, free  
746 from all errors, and up-to-date as may be required by the  
747 department.

748 (9) Agree that any supplementary material developed at the  
749 district or state level does not violate the author's or  
750 publisher's copyright, provided such material is developed in  
751 accordance with the doctrine of fair use.

752 (10) Not in any way, directly or indirectly, become  
753 associated or connected with any combination in restraint of  
754 trade in instructional materials, nor enter into any  
755 understanding, agreement, or combination to control prices or  
756 restrict competition in the sale of instructional materials for  
757 use in the state.

758 (11) Furnish the instructional materials offered by them  
759 at a price in the state which, including all costs of electronic  
760 transmission, may not exceed the lowest price at which they  
761 offer such instructional materials for approval or sale to any  
762 other school district in the state.

763 (12) Provide the department and school districts the cost  
764 paid for an instructional materials product by a school or  
765 district anywhere in the United States. The cost paid for that



Amendment No. 1

766 product must remain the same for all future sales and must be  
767 posted on all marketing materials.

768 ~~(11) Maintain or contract with a depository in the state.~~

769 ~~(12) For the core subject areas specified in s.~~

770 ~~1006.40(2), maintain in the depository for the first 2 years of~~  
771 ~~the contract an inventory of instructional materials sufficient~~  
772 ~~to receive and fill orders.~~

773 (13) For the core subject areas specified in s.

774 1006.40(2), ensure the availability of an inventory sufficient  
775 to receive and fill orders for instructional materials for  
776 growth, including the opening of a new school, and replacement  
777 during the 3rd and subsequent years of the original contract  
778 period.

779 (14) Accurately and fully disclose only the names of those  
780 persons who actually authored the instructional materials. In  
781 addition to the penalties provided in subsection (16), the  
782 commissioner may remove from the list of state-approved ~~state-~~  
783 ~~adopted~~ instructional materials those instructional materials  
784 whose publisher or manufacturer misleads the purchaser by  
785 falsely representing genuine authorship.

786 (15) Grant, without prior written request, for any  
787 copyright held by the publisher or its agencies automatic  
788 permission to the department or its agencies for the  
789 reproduction of instructional materials and supplementary  
790 materials in Braille, large print, or other appropriate format  
791 for use by visually impaired students or other students with  
792 disabilities that would benefit from use of the materials.



Amendment No. 1

793 (16) Upon the willful failure of the publisher or  
794 manufacturer to comply with the requirements of this section, be  
795 liable to the department in the amount of three times the total  
796 sum which the publisher or manufacturer was paid in excess of  
797 the price required under subsections (5) and (6) and in the  
798 amount of three times the total value of the instructional  
799 materials and services which the district school board is  
800 entitled to receive free of charge under subsection (7).

801 Section 14. Subsections (2), (3), and (4) of section  
802 1006.40, Florida Statutes, are amended to read:

803 1006.40 Use of instructional materials allocation;  
804 instructional materials, library books, and reference books;  
805 repair of books.-

806 (2) Each district school board must provide ~~purchase~~  
807 current instructional materials to ~~provide~~ each student with a  
808 major tool or assistance ~~of instruction~~ in core courses of the  
809 subject areas of mathematics, language arts, science, social  
810 studies, reading, and literature for kindergarten through grade  
811 12. ~~Such purchase must be made within the first 2 years after~~  
812 ~~the effective date of the adoption cycle. For the 2012-2013~~  
813 ~~mathematics adoption, a district using a comprehensive~~  
814 ~~mathematics instructional materials program adopted in the 2009-~~  
815 ~~2010 adoption shall be deemed in compliance with this subsection~~  
816 ~~if it provides each student with such additional state-adopted~~  
817 ~~materials as may be necessary to align the previously adopted~~  
818 ~~comprehensive program to common core standards and the other~~  
819 ~~criteria of the 2012-2013 mathematics adoption.~~





Amendment No. 1

820 (3)~~(a)~~ By the 2015-2016 fiscal year, each district school  
821 board shall use at least 50 percent of the annual allocation for  
822 the purchase of digital or electronic instructional materials  
823 that align with state standards ~~included on the state-adopted~~  
824 ~~list, except as otherwise authorized in paragraphs (b) and (c).~~

825 ~~(b) Up to 50 percent of the annual allocation may be used~~  
826 ~~for the purchase of instructional materials, including library~~  
827 ~~and reference books and nonprint materials, not included on the~~  
828 ~~state-adopted list and for the repair and renovation of~~  
829 ~~textbooks and library books.~~

830 ~~(c) District school boards may use 100 percent of that~~  
831 ~~portion of the annual allocation designated for the purchase of~~  
832 ~~instructional materials for kindergarten, and 75 percent of that~~  
833 ~~portion of the annual allocation designated for the purchase of~~  
834 ~~instructional materials for first grade, to purchase materials~~  
835 ~~not on the state-adopted list.~~

836 (4) Remaining funds may ~~The funds described in subsection~~  
837 ~~(3) which district school boards may use to purchase materials~~  
838 ~~not on the state-adopted list shall be used for the purchase of~~  
839 ~~instructional materials or other items~~ including library and  
840 reference books and nonprint materials, having intellectual  
841 content which assist in the instruction of a subject or course.  
842 These items may be available in bound, unbound, kit, or package  
843 form and may consist of hardbacked or softbacked textbooks,  
844 electronic content, replacements for items which were part of  
845 previously purchased instructional materials, consumables,  
846 learning laboratories, manipulatives, electronic media, computer



Amendment No. 1

847 courseware or software, and other commonly accepted  
848 instructional tools as prescribed by district school board rule.

849 Section 15. Paragraphs (o), (p), and (q) of subsection (6)  
850 of section 1001.10, Florida Statutes, are amended, and paragraph  
851 (r) is added to that section to read:

852 1001.10 Commissioner of Education; general powers and  
853 duties.—

854 (6) Additionally, the commissioner has the following  
855 general powers and duties:

856 (o) To develop criteria for use by department state  
857 instructional materials reviewers in evaluating materials  
858 submitted for approval ~~adoption~~ consideration. The criteria  
859 shall, as appropriate, be based on instructional expectations  
860 reflected in course descriptions ~~curriculum frameworks~~ and  
861 student performance standards. The criteria for each subject or  
862 course shall be made available to publishers and manufacturers  
863 of instructional materials pursuant to the requirements of  
864 chapter 1006.

865 (p) To prescribe procedures for evaluating instructional  
866 materials submitted by publishers and manufacturers in each  
867 review for approval ~~adoption~~.

868 (q) To remove any materials approved by the state or a  
869 district enter into agreement with Space Florida to develop  
870 ~~innovative aerospace-related education programs that promote~~  
871 ~~mathematics and science education for grades K-20.~~

872 (r) To submit to the Governor, the President of the  
873 Senate, the Speaker of the House of Representatives, and the  
874 State Board of Education an annual report regarding district and



Amendment No. 1

875 state instructional materials reviews, the impact on the quality  
876 and availability of instructional materials, and the cost-  
877 effectiveness of the state and district review processes. The  
878 report shall be submitted on January 1 following the first  
879 fiscal year of implementation of the program and each year  
880 thereafter.

881 Section 16. Subsection (5) of section 1003.55, Florida  
882 Statutes, is amended to read:

883 1003.55 Instructional programs for blind or visually  
884 impaired students and deaf or hard-of-hearing students.-

885 (5) Any publisher or manufacturer of instructional  
886 materials that have been approved by the department or a school  
887 district ~~a textbook adopted pursuant to the state instructional~~  
888 ~~materials adoption process~~ shall furnish the department of  
889 ~~Education~~ with a computer file in an electronic format specified  
890 by the department ~~at least 2 years in advance~~ that is readily  
891 translatable to Braille and can be used for large print or  
892 speech access. Any instructional materials ~~textbook~~ reproduced  
893 pursuant to ~~the provisions of~~ this subsection shall be purchased  
894 at a price equal to the price paid for the instructional  
895 materials ~~textbook~~ as approved ~~adopted~~. The department of  
896 ~~Education~~ shall not reproduce instructional materials ~~textbooks~~  
897 obtained pursuant to this subsection in any manner that would  
898 generate revenues for the department from the use of such  
899 computer files or that would preclude the rightful payment of  
900 fees to the publisher or manufacturer for use of all or some  
901 portion of the instructional materials ~~textbook~~.



Amendment No. 1

902 Section 17. Paragraph (j) of subsection (2) of section  
903 1003.621, Florida Statutes, is amended to read:

904 1003.621 Academically high-performing school districts.—It  
905 is the intent of the Legislature to recognize and reward school  
906 districts that demonstrate the ability to consistently maintain  
907 or improve their high-performing status. The purpose of this  
908 section is to provide high-performing school districts with  
909 flexibility in meeting the specific requirements in statute and  
910 rules of the State Board of Education.

911 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically  
912 high-performing school district shall comply with all of the  
913 provisions in chapters 1000-1013, and rules of the State Board  
914 of Education which implement these provisions, pertaining to the  
915 following:

916 (j) Those statutes relating to instructional materials,  
917 except that s. 1006.40 ~~s. 1006.37, relating to the requisition~~  
918 ~~of state-adopted materials from the depository under contract~~  
919 ~~with the publisher, and s. 1006.40(3)(a), relating to the use of~~  
920 50 percent of the instructional materials allocation, is shall  
921 ~~be~~ eligible for exemption.

922 Section 18. Paragraph (b) of subsection (6) of section  
923 1011.62, Florida Statutes, is amended to read:

924 1011.62 Funds for operation of schools.—If the annual  
925 allocation from the Florida Education Finance Program to each  
926 district for operation of schools is not determined in the  
927 annual appropriations act or the substantive bill implementing  
928 the annual appropriations act, it shall be determined as  
929 follows:



Amendment No. 1

930 (6) CATEGORICAL FUNDS.—

931 (b) If a district school board finds and declares in a  
932 resolution approved ~~adopted~~ at a regular meeting of the school  
933 board that the funds received for any of the following  
934 categorical appropriations are urgently needed to maintain  
935 ~~school board specified~~ academic classroom instruction specified  
936 by the school board, the school board may consider and approve  
937 an amendment to the school district operating budget  
938 transferring the identified amount of the categorical funds to  
939 the appropriate account for expenditure:

940 1. Funds for student transportation.

941 2. Funds for safe schools.

942 3. Funds for supplemental academic instruction if the  
943 required additional hour of instruction beyond the normal school  
944 day for each day of the entire school year has been provided for  
945 the students in each low-performing elementary school in the  
946 district pursuant to paragraph (1)(f).

947 4. Funds for research-based reading instruction if the  
948 required additional hour of instruction beyond the normal school  
949 day for each day of the entire school year has been provided for  
950 the students in each low-performing elementary school in the  
951 district pursuant to paragraph (9)(a).

952 5. Funds for instructional materials if all instructional  
953 material purchases necessary to provide updated materials that  
954 are aligned with applicable ~~to Next Generation Sunshine~~ state  
955 standards and course descriptions ~~benchmarks~~ and that meet  
956 statutory requirements of content and learning have been  
957 completed for that fiscal year, but no sooner than March 1.



Amendment No. 1

958 Funds available after March 1 may be used to purchase hardware  
959 for student instruction.

960 Section 19. This act shall take effect July 1, 2013.

961

962 -----

963 **T I T L E A M E N D M E N T**

964 Remove everything before the enacting clause and insert:

965 A bill to be entitled

966 An act relating to instructional materials for K-12  
967 public education; amending s. 1006.28, F.S.; revising  
968 the duties of a district school board and the district  
969 superintendent with regard to instructional materials;  
970 repealing s. 1006.282, F.S., relating to the pilot  
971 program for the transition to electronic and digital  
972 instructional materials; creating s. 1006.283, F.S.;  
973 authorizing a district school board or a consortium of  
974 school districts to implement an instructional  
975 materials program; requiring the district  
976 superintendent to certify to the Department of  
977 Education that core instructional materials align with  
978 applicable state standards; requiring the district  
979 school board to adopt rules; authorizing the district  
980 school board to set and collect fees from a publisher  
981 that participates in the instructional materials  
982 review process; providing a limit on fees; prohibiting  
983 fees from being collected from publishers to review  
984 instructional materials; providing for a stipend and  
985 reimbursement for travel expenses and per diem for



## Amendment No. 1

986 reviewers; requiring instructional materials that are  
987 approved by the district instructional materials  
988 reviewers to be aligned with applicable state  
989 standards; requiring each district school board to  
990 annually certify that the instructional materials  
991 align with applicable state standards; providing  
992 pricing requirements for instructional materials;  
993 amending s. 1006.29, F.S.; providing a definition;  
994 requiring the department to appoint state  
995 instructional materials reviewers, rather than state  
996 or national experts, to review instructional  
997 materials; providing requirements, appointments, and  
998 terms for state instructional materials reviewers;  
999 authorizing the department to compensate assigned  
1000 reviewers with funds collected through certain fees;  
1001 providing a purpose for the use of the fees;  
1002 authorizing a stipend for service as a reviewer;  
1003 providing for payment for per diem and reimbursement  
1004 for travel expenses for service as a reviewer;  
1005 requiring a publisher to offer sections of  
1006 instructional materials in certain version at reduced  
1007 rates; requiring the department to post certain  
1008 instructional materials on its website; amending s.  
1009 1006.30, F.S.; conforming provisions to changes made  
1010 by the act; amending s. 1006.31, F.S.; conforming  
1011 provisions to changes made by the act; revising the  
1012 procedure for evaluating instructional materials;  
1013 providing standards to determine the propriety of



## Amendment No. 1

1014 instructional materials; amending s. 1006.32, F.S.;

1015 conforming provisions to changes made by the act;

1016 repealing s. 1006.33, F.S., relating to bids,

1017 proposals, and advertisement regarding instructional

1018 materials; amending s. 1006.34, F.S.; revising the

1019 powers and duties of the State Board of Education in

1020 evaluating instructional materials to include

1021 collecting fees and adopting rules; conforming

1022 provisions to changes made by the act; amending s.

1023 1006.35, F.S.; authorizing the Commissioner of

1024 Education to remove materials from the list of

1025 approved materials if the materials do not align with

1026 applicable state standards; prohibiting a school

1027 district from purchasing removed materials under

1028 certain circumstances; amending s. 1006.36, F.S.;

1029 providing for the state review cycle for instructional

1030 materials; amending s. 1006.37, F.S.; authorizing a

1031 district school superintendent to requisition approved

1032 instructional materials; conforming provisions to

1033 changes made by the act; amending s. 1006.38, F.S.;

1034 providing for applicability; revising duties of

1035 publishers and manufacturers; amending s. 1006.40,

1036 F.S.; revising the allocation for instructional

1037 materials; amending s. 1001.10, F.S.; revising the

1038 duties of the Commissioner of Education with regard to

1039 instructional materials, including submission of a

1040 report to the Governor and the Legislature; amending

1041 s. 1003.55, F.S.; requiring a publisher or





Amendment No. 1

1042 manufacturer of instructional materials that have been  
1043 approved by the Department of Education or a school  
1044 district to furnish the department with a computer  
1045 file in an electronic format specified by the  
1046 department; amending s. 1003.621, F.S.; conforming  
1047 provisions to changes made by the act; amending s.  
1048 1011.62, F.S.; conforming provisions to changes made  
1049 by the act; providing an effective date.

1                                   A bill to be entitled  
 2           An act relating to instructional materials for K-12  
 3           public education; amending s. 1006.28, F.S.; providing  
 4           district school board duties relating to the  
 5           collection of fees from publishers or manufacturers  
 6           and procedures for reviewing and approving  
 7           instructional materials; defining the term  
 8           "instructional materials" for purposes of review;  
 9           repealing s. 1006.282, F.S., relating to a pilot  
 10          program for the transition to electronic and digital  
 11          instructional materials; amending s. 1006.29, F.S.;  
 12          providing for Department of Education instructional  
 13          materials reviewers; providing procedures for  
 14          department review and approval of instructional  
 15          materials; authorizing the department to compensate  
 16          reviewers; deleting provisions relating to adoption of  
 17          instructional materials; requiring the department to  
 18          publicize adopted instructional materials; amending s.  
 19          1006.30, F.S., relating to an affidavit made by  
 20          instructional materials reviewers, to conform;  
 21          amending s. 1006.31, F.S.; providing duties of  
 22          department and school district instructional materials  
 23          reviewers; requiring a reviewer to use specified  
 24          standards to determine the propriety of an  
 25          instructional material; amending s. 1006.32, F.S.;  
 26          providing prohibited acts for department and district  
 27          instructional materials reviewers; repealing s.  
 28          1006.33, F.S., relating to bids or proposals by

29 publishers or manufacturers; amending s. 1006.34,  
 30 F.S.; providing duties of the State Board of Education  
 31 relating to evaluating instructional materials;  
 32 authorizing the collection of fees from publishers or  
 33 manufacturers; deleting provisions relating to  
 34 selection and adoption of instructional materials and  
 35 publisher or manufacturer contracts, bonds, and  
 36 deposits; amending s. 1006.35, F.S., relating to the  
 37 accuracy of instructional materials, to conform;  
 38 amending s. 1006.36, F.S.; providing for a state  
 39 review cycle and schedule; repealing s. 1006.37, F.S.,  
 40 relating to the requisition of instructional materials  
 41 from a publisher's depository; amending s. 1006.38,  
 42 F.S.; revising duties of publishers and manufacturers;  
 43 amending s. 1006.40, F.S.; revising provisions  
 44 relating to the use of the instructional materials  
 45 allocation by district school boards; amending ss.  
 46 1001.10, 1003.55, 1003.621, and 1011.62, F.S.;  
 47 conforming provisions; repealing s. 1010.82, F.S.,  
 48 relating to the Textbook Bid Trust Fund; providing an  
 49 effective date.

50

51 Be It Enacted by the Legislature of the State of Florida:

52

53 Section 1. Paragraph (b) of subsection (1) and subsection  
 54 (2) of section 1006.28, Florida Statutes, are amended to read:  
 55 1006.28 Duties of district school board, district school  
 56 superintendent; and school principal regarding K-12

57 | instructional materials.-

58 |       (1) DISTRICT SCHOOL BOARD.—The district school board has  
 59 | the duty to provide adequate instructional materials for all  
 60 | students in accordance with the requirements of this part. The  
 61 | term "adequate instructional materials" means a sufficient  
 62 | number of student or site licenses or sets of materials that are  
 63 | available in bound, unbound, kit, or package form and may  
 64 | consist of hardbacked or softbacked textbooks, electronic  
 65 | content, consumables, learning laboratories, manipulatives,  
 66 | electronic media, and computer courseware or software that serve  
 67 | as the basis for instruction for each student in the core  
 68 | courses of mathematics, language arts, social studies, science,  
 69 | reading, and literature. The district school board has the  
 70 | following specific duties:

71 |       (b) Instructional materials.-

72 |       1. Provide for proper requisitioning, distribution,  
 73 | accounting, storage, care, and use of all instructional  
 74 | materials and furnish such other instructional materials as may  
 75 | be needed. The district school board shall ensure that  
 76 | instructional materials used in the district are consistent with  
 77 | the district goals and objectives and the course descriptions  
 78 | established in ~~curriculum frameworks~~ adopted by rule of the  
 79 | State Board of Education, as well as with the state and district  
 80 | performance standards provided for in s. 1001.03(1). The  
 81 | district school board may set and collect fees from publishers  
 82 | or manufacturers participating in the instructional materials  
 83 | approval process. However, a district school board may not

84 assess a fee to review materials that have been evaluated  
 85 previously by the state.

86 2. Adopt rules prescribing the procedures by which  
 87 district personnel shall evaluate instructional materials  
 88 submitted by publishers or manufacturers in each approval cycle.

89 3. Determine if the district will be responsible for  
 90 reviewing instructional materials submitted by a publisher or  
 91 manufacturer or if the district will refer submitted materials  
 92 to the department for review.

93 4. If the district is responsible for reviewing submitted  
 94 materials, designate district staff who are experts in the  
 95 content areas submitted for approval to review submitted  
 96 instructional materials to ensure the content aligns with the  
 97 applicable state standards. The reviewers shall be designated as  
 98 district instructional materials reviewers and shall review the  
 99 materials for the level of instructional support and the  
 100 accuracy and appropriateness of progression of introduced  
 101 content. Instructional materials shall be made electronically  
 102 available to the reviewers. The reviewers shall make  
 103 recommendations to the district school board regarding materials  
 104 that should be considered for use in schools. For purposes of  
 105 reviewing materials, the term "instructional materials" means  
 106 items having intellectual content that by design assist in the  
 107 instruction of a subject or course. These items may be available  
 108 in bound, unbound, kit, or package form and may consist of  
 109 hardbacked or softbacked textbooks, electronic content,  
 110 consumables, learning laboratories, manipulatives, electronic  
 111 media, and computer courseware or software. A publisher or

112 manufacturer providing instructional materials as a single  
 113 bundle shall also make the instructional materials available as  
 114 separate and unbundled items, each priced individually. A  
 115 publisher or manufacturer must also offer sections of  
 116 instructional materials in digital or electronic versions at  
 117 reduced rates to districts, schools, and teachers.

118 5. Approve instructional materials that have been reviewed  
 119 by district or department instructional materials reviewers and  
 120 have been determined to align with all applicable state  
 121 standards pursuant to s. 1003.41 and the requirements in s.  
 122 1006.31.

123 6. Certify to the department that all core instructional  
 124 materials have been approved pursuant to subparagraph 5.

125 (2) DISTRICT SCHOOL SUPERINTENDENT.—

126 ~~(a)~~ The district school superintendent has the duty to  
 127 recommend such plans for improving, providing, distributing,  
 128 accounting for, and caring for instructional materials and other  
 129 instructional aids as will result in general improvement of the  
 130 district school system, as prescribed in this part, in  
 131 accordance with adopted district school board rules prescribing  
 132 the duties and responsibilities of the district school  
 133 superintendent regarding the requisition, purchase, receipt,  
 134 storage, distribution, use, conservation, records, and reports  
 135 of, and management practices and property accountability  
 136 concerning, instructional materials, and providing for an  
 137 evaluation of any instructional materials to be requisitioned  
 138 that have not been used previously in the district's schools.  
 139 The district school superintendent must keep adequate records

HB 1031

2013

140 and accounts for all financial transactions for funds collected  
 141 pursuant to subsection (3), as a component of the educational  
 142 service delivery scope in a school district best financial  
 143 management practices review under s. 1008.35.

144 ~~(b) Each district school superintendent shall notify the~~  
 145 ~~department by April 1 of each year the state-adopted~~  
 146 ~~instructional materials that will be requisitioned for use in~~  
 147 ~~his or her school district. The notification shall include a~~  
 148 ~~district school board plan for instructional materials use to~~  
 149 ~~assist in determining if adequate instructional materials have~~  
 150 ~~been requisitioned.~~

151 Section 2. Section 1006.282, Florida Statutes, is  
 152 repealed.

153 Section 3. Section 1006.29, Florida Statutes, is amended  
 154 to read:

155 1006.29 Department of Education State instructional  
 156 materials reviewers.-

157 (1)(a) The commissioner shall determine annually the areas  
 158 in which instructional materials shall be submitted for approval  
 159 ~~adoption~~, taking into consideration the desires of the district  
 160 school boards. ~~The commissioner shall also determine the number~~  
 161 ~~of titles to be adopted in each area.~~

162 (b) ~~By April 15 of each school year, The~~ department  
 163 ~~commissioner shall, appoint three state or national experts in~~  
 164 the content areas submitted by a publisher, manufacturer, or  
 165 district school board for approval, ~~adoption~~ to review the  
 166 instructional materials and evaluate the content for alignment  
 167 with the applicable ~~Next Generation Sunshine~~ state standards.

168 ~~These reviewers shall be designated as state instructional~~  
 169 ~~materials reviewers and shall review~~ The materials shall be  
 170 evaluated for the level of instructional support and the  
 171 accuracy and appropriateness of progression of introduced  
 172 content. Instructional materials shall be made electronically  
 173 available to the reviewers. ~~The initial review of the materials~~  
 174 ~~shall be made by only two of the three reviewers. If the two~~  
 175 ~~reviewers reach different results, the third reviewer shall~~  
 176 ~~break the tie. The reviewers shall independently make~~  
 177 ~~recommendations to the commissioner regarding materials that~~  
 178 ~~should be placed on the list of adopted materials through an~~  
 179 ~~electronic feedback review system.~~

180 (c) The department may compensate assigned reviewers with  
 181 funds collected through fees authorized in accordance with s.  
 182 1006.34(2). The commissioner shall request each district school  
 183 superintendent to nominate one classroom teacher or district-  
 184 level content supervisor to review two or three of the  
 185 submissions recommended by the department ~~state~~ instructional  
 186 materials reviewers. School districts shall ensure that these  
 187 district reviewers are provided with the support and time  
 188 necessary to accomplish a thorough review of the instructional  
 189 materials. District reviewers shall independently rate the  
 190 recommended submissions on the instructional usability of the  
 191 resources.

192 (2) For purposes of approving materials ~~state adoption,~~  
 193 the term "instructional materials" means items having  
 194 intellectual content that by design assist ~~serve as a major tool~~  
 195 ~~for assisting~~ in the instruction of a subject or course. These



196 items may be available in bound, unbound, kit, or package form  
 197 and may consist of hardbacked or softbacked textbooks,  
 198 electronic content, consumables, learning laboratories,  
 199 manipulatives, electronic media, and computer courseware or  
 200 software. A publisher or manufacturer providing instructional  
 201 materials as a single bundle shall also make the instructional  
 202 materials available as separate and unbundled items, each priced  
 203 individually. A publisher or manufacturer shall ~~may~~ also offer  
 204 sections of ~~state-adopted~~ instructional materials in digital or  
 205 electronic versions at reduced rates to districts, schools, and  
 206 teachers.

207 (3) Beginning in the 2015-2016 academic year, all approved  
 208 ~~adopted~~ instructional materials for students in kindergarten  
 209 through grade 12 must be provided in an electronic or digital  
 210 format. For purposes of this section, the term:

211 (a) "Electronic format" means text-based or image-based  
 212 content in a form that is produced on, published by, and  
 213 readable on computers or other digital devices and is an  
 214 electronic version of a printed book, whether or not any printed  
 215 equivalent exists.

216 (b) "Digital format" means text-based or image-based  
 217 content in a form that provides the student with various  
 218 interactive functions; that can be searched, tagged,  
 219 distributed, and used for individualized and group learning;  
 220 that includes multimedia content such as video clips,  
 221 animations, and virtual reality; and that has the ability to be  
 222 accessed at any time and anywhere.

223

224 The terms do not include electronic or computer hardware even if  
 225 such hardware is bundled with software or other electronic  
 226 media, nor does it include equipment or supplies.

227 (4) The department shall develop a training program for  
 228 persons selected to review submitted ~~as state~~ instructional  
 229 materials ~~reviewers and school district reviewers~~. The program  
 230 shall be structured to assist reviewers in developing the skills  
 231 necessary to make valid, culturally sensitive, and objective  
 232 decisions regarding the content and rigor of instructional  
 233 materials. All persons reviewing ~~serving as~~ instructional  
 234 materials ~~reviewers~~ must complete the training program prior to  
 235 beginning the review and selection process.

236 (5) The department shall post on its website a list of  
 237 department-approved instructional materials, district-approved  
 238 instructional materials, and instructional materials approved by  
 239 other states that align with applicable state standards.

240 Section 4. Section 1006.30, Florida Statutes, is amended  
 241 to read:

242 1006.30 Affidavit of Department of Education ~~state~~  
 243 instructional materials reviewers.—Before transacting any  
 244 business, each department ~~state~~ instructional materials reviewer  
 245 shall make an affidavit, to be filed with the department, that:

246 (1) The reviewer will faithfully discharge the duties  
 247 imposed upon him or her.

248 (2) The reviewer has no interest in any publishing or  
 249 manufacturing organization that produces or sells instructional  
 250 materials.

251 (3) The reviewer is in no way connected with the

252 distribution of the instructional materials.

253 (4) The reviewer does not have any direct or indirect  
 254 pecuniary interest in the business or profits of any person  
 255 engaged in manufacturing, publishing, or selling instructional  
 256 materials designed for use in the public schools.

257 (5) The reviewer will not accept any emolument or promise  
 258 of future reward of any kind from any publisher or manufacturer  
 259 of instructional materials or his or her agent or anyone  
 260 interested in, or intending to bias his or her judgment in any  
 261 way in, the selection of any materials to be approved ~~adopted~~.

262 (6) The reviewer understands that it is unlawful to  
 263 discuss matters relating to instructional materials submitted  
 264 for approval ~~adoption~~ with any agent of a publisher or  
 265 manufacturer of instructional materials, either directly or  
 266 indirectly, except during the period when the publisher or  
 267 manufacturer is providing a presentation for the reviewer during  
 268 his or her review of the instructional materials submitted for  
 269 approval ~~adoption~~.

270 Section 5. Section 1006.31, Florida Statutes, is amended  
 271 to read:

272 1006.31 Duties of the Department of Education and school  
 273 district ~~each state~~ instructional materials reviewer.—The duties  
 274 of the ~~each state~~ instructional materials reviewer are:

275 (1) PROCEDURES.—To adhere to procedures prescribed by the  
 276 department or the district for evaluating instructional  
 277 materials submitted by publishers and manufacturers in each  
 278 review for approval ~~adoption~~.

279 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate

280 carefully all instructional materials submitted, in order to  
 281 ascertain which instructional materials, if any, submitted for  
 282 consideration implement the selection criteria developed by the  
 283 department or the district and those curricular objectives  
 284 included within applicable performance standards provided for in  
 285 s. 1001.03(1).

286 (a) When evaluating ~~recommending~~ instructional materials  
 287 for use in the schools, each reviewer should ensure that the  
 288 ~~shall include only~~ instructional materials ~~that~~ accurately  
 289 portray the ethnic, socioeconomic, cultural, and racial  
 290 diversity of our society, including men and women in  
 291 professional, career, and executive roles, and the role and  
 292 contributions of the entrepreneur and labor in the total  
 293 development of this state and the United States.

294 (b) When evaluating ~~recommending~~ instructional materials  
 295 for use in the schools, each reviewer should ensure that the  
 296 ~~shall include only~~ materials ~~that~~ accurately portray, whenever  
 297 appropriate, humankind's place in ecological systems, including  
 298 the necessity for the protection of our environment and  
 299 conservation of our natural resources and the effects on the  
 300 human system of the use of tobacco, alcohol, controlled  
 301 substances, and other dangerous substances.

302 (c) When evaluating ~~recommending~~ instructional materials  
 303 for use in the schools, each reviewer should ensure that the  
 304 materials ~~shall require such materials as he or she deems~~  
 305 ~~necessary and proper to~~ encourage thrift, fire prevention, and  
 306 humane treatment of people and animals.

307 (d) When evaluating ~~recommending~~ instructional materials

308 for use in the schools, each reviewer should ensure ~~shall~~  
 309 ~~require~~, when appropriate to the comprehension of students, that  
 310 materials for social science, history, or civics classes contain  
 311 the Declaration of Independence and the Constitution of the  
 312 United States. A reviewer may not recommend any instructional  
 313 materials for use in the schools which contain any matter  
 314 reflecting unfairly upon persons because of their race, color,  
 315 creed, national origin, ancestry, gender, or occupation.

316 (e) When evaluating instructional materials, library  
 317 media, and other reading material for use in the schools, each  
 318 reviewer shall use the following standards to determine the  
 319 propriety of the material:

320 1. The age of students who normally could be expected to  
 321 have access to the material.

322 2. The educational purpose to be served by the material.  
 323 In considering instructional materials for classroom use,  
 324 priority shall be given to the selection of materials that  
 325 encompass the state and district school board performance  
 326 standards provided for in s. 1001.03(1) and that include the  
 327 instructional objectives contained within the course  
 328 descriptions established in rule by the State Board of  
 329 Education.

330 3. The degree to which the material would be supplemented  
 331 and explained by mature classroom instruction as part of a  
 332 normal classroom instructional program.

333 4. The degree to which the material represents the broad  
 334 racial, ethnic, socioeconomic, and cultural diversity of  
 335 students in the state.

336  
 337 Any instructional material containing pornography or otherwise  
 338 prohibited by s. 847.012 may not be used or made available  
 339 within any public school.

340 ~~(e) Any instructional material recommended by each~~  
 341 ~~reviewer for use in the schools shall be, to the satisfaction of~~  
 342 ~~each reviewer, accurate, objective, and current and suited to~~  
 343 ~~the needs and comprehension of students at their respective~~  
 344 ~~grade levels. Reviewers shall consider for adoption materials~~  
 345 ~~developed for academically talented students such as those~~  
 346 ~~enrolled in advanced placement courses.~~

347 ~~(3) REPORT OF REVIEWERS. After a thorough study of all~~  
 348 ~~data submitted on each instructional material, to submit an~~  
 349 ~~electronic report to the department. The report shall be made~~  
 350 ~~public and must include responses to each section of the report~~  
 351 ~~format prescribed by the department.~~

352 Section 6. Section 1006.32, Florida Statutes, is amended  
 353 to read:

354 1006.32 Prohibited acts.—

355 (1) A publisher or manufacturer of instructional material,  
 356 or any representative thereof, may not offer to give any  
 357 emolument, money, or other valuable thing, or any inducement, to  
 358 any district school board official or department or district  
 359 state instructional materials reviewer to directly or indirectly  
 360 introduce, recommend, vote for, or otherwise influence the  
 361 approval ~~adoption~~ or purchase of any instructional materials.

362 (2) A district school board official or a department or  
 363 district ~~state~~ instructional materials reviewer may not solicit

364 or accept any emolument, money, or other valuable thing, or any  
 365 inducement, to directly or indirectly introduce, recommend, vote  
 366 for, or otherwise influence the approval ~~adoption~~ or purchase of  
 367 any instructional material.

368 ~~(3) A district school board or publisher may not~~  
 369 ~~participate in a pilot program of materials being considered for~~  
 370 ~~adoption during the 18-month period before the official adoption~~  
 371 ~~of the materials by the commissioner. Any pilot program during~~  
 372 ~~the first 2 years of the adoption period must have the prior~~  
 373 ~~approval of the commissioner.~~

374 (3)~~(4)~~ Any publisher or manufacturer of instructional  
 375 materials or representative thereof or any district school board  
 376 official or department or district ~~state~~ instructional materials  
 377 reviewer who violates any provision of this section commits a  
 378 misdemeanor of the second degree, punishable as provided in s.  
 379 775.082 or s. 775.083. Any representative of a publisher or  
 380 manufacturer who violates any provision of this section, in  
 381 addition to any other penalty, shall be banned from practicing  
 382 business in the state for a period of 1 calendar year.

383 (4)~~(5)~~ This section does not prohibit any publisher,  
 384 manufacturer, or agent from supplying, for purposes of  
 385 examination, necessary sample copies of instructional materials  
 386 to any district school board official or department or district  
 387 ~~state~~ instructional materials reviewer.

388 (5)~~(6)~~ This section does not prohibit a district school  
 389 board official or department or district ~~state~~ instructional  
 390 materials reviewer from receiving sample copies of instructional  
 391 materials.

392            (6)~~(7)~~ This section does not prohibit or restrict a  
 393 district school board official from receiving royalties or other  
 394 compensation, other than compensation paid to him or her as  
 395 commission for negotiating sales to district school boards, from  
 396 the publisher or manufacturer of instructional materials  
 397 written, designed, or prepared by such district school board  
 398 official, ~~and adopted by the commissioner or~~ purchased by any  
 399 district school board. No district school board official shall  
 400 be allowed to receive royalties on any materials not ~~on the~~  
 401 ~~state-adopted list~~ purchased for use by his or her district  
 402 school board.

403            (7)~~(8)~~ A district school superintendent, district school  
 404 board member, teacher, or other person officially connected with  
 405 the government or direction of public schools may not receive  
 406 during the months actually engaged in performing duties under  
 407 his or her contract any private fee, gratuity, donation, or  
 408 compensation, in any manner whatsoever, for promoting the sale  
 409 or exchange of any instructional material, map, or chart in any  
 410 public school, or be an agent for the sale or the publisher of  
 411 any instructional material or reference work, or have a direct  
 412 or indirect pecuniary interest in the introduction of any such  
 413 instructional material, and any such agency or interest shall  
 414 disqualify any person so acting or interested from holding any  
 415 district school board employment whatsoever, and the person  
 416 commits a misdemeanor of the second degree, punishable as  
 417 provided in s. 775.082 or s. 775.083; however, this subsection  
 418 does not prevent the approval ~~adoption~~ of any instructional  
 419 material written in whole or in part by a Florida author.



HB 1031

2013

420 Section 7. Section 1006.33, Florida Statutes, is repealed.

421 Section 8. Section 1006.34, Florida Statutes, is amended  
422 to read:

423 1006.34 Powers and duties of the State Board of Education  
424 ~~commissioner and the department in evaluating selecting and~~  
425 ~~adopting~~ instructional materials.-

426 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.-The  
427 State Board of Education shall adopt rules prescribing the  
428 procedures by which the department shall evaluate instructional  
429 materials submitted by publishers and manufacturers in each  
430 review for approval ~~adoption~~. Included in these procedures shall  
431 be provisions affording each publisher or manufacturer or his or  
432 her representative an opportunity to provide a virtual  
433 presentation to the department ~~state~~ instructional materials  
434 reviewers on the merits of each instructional material submitted  
435 in each review for approval ~~adoption~~.

436 (2) FEES.-The State Board of Education may set and collect  
437 fees from publishers or manufacturers participating in the  
438 instructional materials approval process who request a review of  
439 their submitted materials by the department.

440 ~~(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.-~~

441 ~~(a) The department shall notify all publishers and~~  
442 ~~manufacturers of instructional materials who have submitted bids~~  
443 ~~that within 3 weeks after the deadline for receiving bids, at a~~  
444 ~~designated time and place, it will open the bids submitted and~~  
445 ~~deposited with it. At the time and place designated, the bids~~  
446 ~~shall be opened, read, and tabulated in the presence of the~~  
447 ~~bidders or their representatives. No one may revise his or her~~

448 ~~bid after the bids have been filed. When all bids have been~~  
 449 ~~carefully considered, the commissioner shall, from the list of~~  
 450 ~~suitable, usable, and desirable instructional materials reported~~  
 451 ~~by the state instructional materials reviewers, select and adopt~~  
 452 ~~instructional materials for each grade and subject field in the~~  
 453 ~~curriculum of public elementary, middle, and high schools in~~  
 454 ~~which adoptions are made and in the subject areas designated in~~  
 455 ~~the advertisement. The adoption shall continue for the period~~  
 456 ~~specified in the advertisement, beginning on the ensuing April~~  
 457 ~~1. The adoption shall not prevent the extension of a contract as~~  
 458 ~~provided in subsection (3). The commissioner shall always~~  
 459 ~~reserve the right to reject any and all bids. The commissioner~~  
 460 ~~may ask for new sealed bids from publishers or manufacturers~~  
 461 ~~whose instructional materials were recommended by the state~~  
 462 ~~instructional materials reviewers as suitable, usable, and~~  
 463 ~~desirable; specify the dates for filing such bids and the date~~  
 464 ~~on which they shall be opened; and proceed in all matters~~  
 465 ~~regarding the opening of bids and the awarding of contracts as~~  
 466 ~~required by this part. In all cases, bids shall be accompanied~~  
 467 ~~by a cash deposit or certified check of from \$500 to \$2,500, as~~  
 468 ~~the department may direct. The department, in adopting~~  
 469 ~~instructional materials, shall give due consideration both to~~  
 470 ~~the prices bid for furnishing instructional materials and to the~~  
 471 ~~report and recommendations of the state instructional materials~~  
 472 ~~reviewers. When the commissioner has finished with the report of~~  
 473 ~~the state instructional materials reviewers, the report shall be~~  
 474 ~~filed and preserved with the department and shall be available~~  
 475 ~~at all times for public inspection.~~

476 ~~(b) In the selection of instructional materials, library~~  
 477 ~~media, and other reading material used in the public school~~  
 478 ~~system, the standards used to determine the propriety of the~~  
 479 ~~material shall include:~~

480 ~~1. The age of the students who normally could be expected~~  
 481 ~~to have access to the material.~~

482 ~~2. The educational purpose to be served by the material.~~  
 483 ~~In considering instructional materials for classroom use,~~  
 484 ~~priority shall be given to the selection of materials which~~  
 485 ~~encompass the state and district school board performance~~  
 486 ~~standards provided for in s. 1001.03(1) and which include the~~  
 487 ~~instructional objectives contained within the curriculum~~  
 488 ~~frameworks approved by rule of the State Board of Education.~~

489 ~~3. The degree to which the material would be supplemented~~  
 490 ~~and explained by mature classroom instruction as part of a~~  
 491 ~~normal classroom instructional program.~~

492 ~~4. The consideration of the broad racial, ethnic,~~  
 493 ~~socioeconomic, and cultural diversity of the students of this~~  
 494 ~~state.~~

495  
 496 ~~Any instructional material containing pornography or otherwise~~  
 497 ~~prohibited by s. 847.012 may not be used or made available~~  
 498 ~~within any public school.~~

499 ~~(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND. As~~  
 500 ~~soon as practicable after the commissioner has adopted any~~  
 501 ~~instructional materials and all bidders that have secured the~~  
 502 ~~adoption of any instructional materials have been notified~~  
 503 ~~thereof by registered letter, the department shall prepare a~~

504 ~~contract in proper form with every bidder awarded the adoption~~  
 505 ~~of any instructional materials. Each contract shall be executed~~  
 506 ~~by the commissioner, one copy to be kept by the contractor and~~  
 507 ~~one copy to be filed with the department. After giving due~~  
 508 ~~consideration to comments by the district school boards, the~~  
 509 ~~commissioner, with the agreement of the publisher, may extend or~~  
 510 ~~shorten a contract period for a period not to exceed 2 years;~~  
 511 ~~and the terms of any such contract shall remain the same as in~~  
 512 ~~the original contract. Any publisher or manufacturer to whom any~~  
 513 ~~contract is let under this part must give bond in such amount as~~  
 514 ~~the department requires, payable to the state, conditioned for~~  
 515 ~~the faithful, honest, and exact performance of the contract. The~~  
 516 ~~bond must provide for the payment of reasonable attorney's fees~~  
 517 ~~in case of recovery in any suit thereon. The surety on the bond~~  
 518 ~~must be a guaranty or surety company lawfully authorized to do~~  
 519 ~~business in the state; however, the bond shall not be exhausted~~  
 520 ~~by a single recovery but may be sued upon from time to time~~  
 521 ~~until the full amount thereof is recovered, and the department~~  
 522 ~~may at any time, after giving 30 days' notice, require~~  
 523 ~~additional security or additional bond. The form of any bond or~~  
 524 ~~bonds or contract or contracts under this part shall be prepared~~  
 525 ~~and approved by the department. At the discretion of the~~  
 526 ~~department, a publisher or manufacturer to whom any contract is~~  
 527 ~~let under this part may be allowed a cash deposit in lieu of a~~  
 528 ~~bond, conditioned for the faithful, honest, and exact~~  
 529 ~~performance of the contract. The cash deposit, payable to the~~  
 530 ~~department, shall be placed in the Textbook Bid Trust Fund. The~~  
 531 ~~department may recover damages on the cash deposit given by the~~

532 ~~contractor for failure to furnish instructional materials, the~~  
 533 ~~sum recovered to inure to the General Revenue Fund.~~

534 ~~(4) REGULATIONS GOVERNING THE CONTRACT. The department~~  
 535 ~~may, from time to time, take any necessary actions, consistent~~  
 536 ~~with this part, to secure the prompt and faithful performance of~~  
 537 ~~all instructional materials contracts; and if any contractor~~  
 538 ~~fails or refuses to furnish instructional materials as provided~~  
 539 ~~in this part or otherwise breaks his or her contract, the~~  
 540 ~~department may sue on the required bond in the name of the~~  
 541 ~~state, in the courts of the state having jurisdiction, and~~  
 542 ~~recover damages on the bond given by the contractor for failure~~  
 543 ~~to furnish instructional materials, the sum recovered to inure~~  
 544 ~~to the General Revenue Fund.~~

545 ~~(5) RETURN OF DEPOSITS.—~~

546 ~~(a) The successful bidder shall be notified by registered~~  
 547 ~~mail of the award of contract and shall, within 30 days after~~  
 548 ~~receipt of the contract, execute the proper contract and post~~  
 549 ~~the required bond. When the bond and contract have been~~  
 550 ~~executed, the department shall notify the Chief Financial~~  
 551 ~~Officer and request that a warrant be issued against the~~  
 552 ~~Textbook Bid Trust Fund payable to the successful bidder in the~~  
 553 ~~amount deposited pursuant to this part. The Chief Financial~~  
 554 ~~Officer shall issue and forward the warrant to the department~~  
 555 ~~for distribution to the bidder.~~

556 ~~(b) At the same time or prior thereto, the department~~  
 557 ~~shall inform the Chief Financial Officer of the names of the~~  
 558 ~~unsuccessful bidders. Upon receipt of such notice, the Chief~~  
 559 ~~Financial Officer shall issue warrants against the Textbook Bid~~

560 ~~Trust Fund payable to the unsuccessful bidders in the amounts~~  
 561 ~~deposited pursuant to this part and shall forward the warrants~~  
 562 ~~to the department for distribution to the unsuccessful bidders.~~

563 ~~(c) One copy of each contract and an original of each bid,~~  
 564 ~~whether accepted or rejected, shall be preserved with the~~  
 565 ~~department for at least 3 years after the termination of the~~  
 566 ~~contract.~~

567 ~~(6) DEPOSITS FORFEITED. If any successful bidder fails or~~  
 568 ~~refuses to execute contract and bond within 30 days after~~  
 569 ~~receipt of the contract, the cash deposit shall be forfeited to~~  
 570 ~~the state and placed by the Chief Financial Officer in the~~  
 571 ~~General Revenue Fund.~~

572 ~~(7) FORFEITURE OF CONTRACT AND BOND. If any publisher or~~  
 573 ~~manufacturer of instructional materials fails or refuses to~~  
 574 ~~furnish instructional materials as provided in the contract, the~~  
 575 ~~publisher's or manufacturer's bond is forfeited and the~~  
 576 ~~commissioner must make another contract.~~

577 Section 9. Section 1006.35, Florida Statutes, is amended  
 578 to read:

579 1006.35 Accuracy of instructional materials.—

580 (1) In addition to relying on statements of publishers or  
 581 manufacturers of instructional materials, the commissioner may  
 582 conduct or cause to be conducted an independent investigation to  
 583 determine the accuracy of approved ~~state-adopted~~ instructional  
 584 materials.

585 (2) When errors in approved ~~state-adopted~~ materials are  
 586 confirmed, the publisher or manufacturer of the materials shall  
 587 provide to each district school board that has purchased the

HB 1031

2013

588 materials the corrections in a format approved by the  
 589 department.

590 (3) The commissioner may remove materials from the list of  
 591 approved ~~state-adopted~~ materials if he or she finds that the  
 592 content is in error and the publisher or manufacturer refuses to  
 593 correct the error when notified by the department.

594 (4) The commissioner may remove materials from the list of  
 595 approved ~~state-adopted~~ materials at the request of the publisher  
 596 or manufacturer if, in his or her opinion, there is no material  
 597 impact on the state's education goals.

598 Section 10. Section 1006.36, Florida Statutes, is amended  
 599 to read:

600 1006.36 State review cycle ~~Term of adoption~~ for  
 601 instructional materials.-

602 (1) The state review cycle ~~term of adoption~~ of any  
 603 instructional materials shall ~~must~~ be a 5-year period ~~beginning~~  
 604 ~~on April 1 following the adoption~~, except that the commissioner  
 605 may approve alternative schedules ~~terms of adoption~~ of less than  
 606 5 years for materials in content areas which require more  
 607 frequent revision. ~~Any contract for instructional materials may~~  
 608 ~~be extended as prescribed in s. 1006.34(3).~~

609 (2) The department shall publish annually an official  
 610 schedule of subject areas to be called for review ~~adoption~~ for  
 611 each of the succeeding 2 years, and a tentative schedule for  
 612 years 3, 4, and 5. If extenuating circumstances warrant, the  
 613 commissioner may add one or more subject areas to the official  
 614 schedule, in which event the commissioner shall develop criteria  
 615 for such additional subject area or areas and make them

616 available to publishers or manufacturers as soon as practicable  
 617 before the date on which submission for review is ~~bids~~ are due.  
 618 The schedule shall be developed so as to promote balance among  
 619 the subject areas so that the required expenditure for new  
 620 instructional materials is approximately the same each year in  
 621 order to maintain curricular consistency.

622 Section 11. Section 1006.37, Florida Statutes, is  
 623 repealed.

624 Section 12. Subsections (2), (3), and (5) of section  
 625 1006.38, Florida Statutes, are amended, subsections (15) and  
 626 (16) are renumbered as subsections (11) and (12), respectively,  
 627 and present subsections (11) through (14) of that section are  
 628 amended, to read:

629 1006.38 Duties, responsibilities, and requirements of  
 630 instructional materials publishers and manufacturers.—Publishers  
 631 and manufacturers of instructional materials, or their  
 632 representatives, shall:

633 (2) Electronically deliver fully developed sample copies  
 634 of all instructional materials upon which reviews ~~bids~~ are based  
 635 to the department pursuant to procedures adopted by the State  
 636 Board of Education.

637 (3) ~~Submit, at a time designated in s. 1006.33,~~ the  
 638 following information:

639 (a) Detailed specifications of the physical  
 640 characteristics of the instructional materials, including any  
 641 software or technological tools required for use by the  
 642 district, school, teachers, or students. The publisher or  
 643 manufacturer shall comply with these specifications if the



644 instructional materials are approved ~~adopted~~ and purchased in  
 645 completed form.

646 (b) Evidence that the publisher or manufacturer has  
 647 provided materials that address the performance standards  
 648 provided for in s. 1001.03(1) and that can be accessed through  
 649 the district's local instructional improvement system and a  
 650 variety of electronic, digital, and mobile devices.

651 (5) Furnish the instructional materials offered by them at  
 652 a price in the state which, including all costs of electronic  
 653 transmission, may not exceed the lowest price at which they  
 654 offer such instructional materials for approval ~~adoption~~ or sale  
 655 to any state or school district in the United States.

656 ~~(11) Maintain or contract with a depository in the state.~~

657 ~~(12) For the core subject areas specified in s.~~  
 658 ~~1006.40(2), maintain in the depository for the first 2 years of~~  
 659 ~~the contract an inventory of instructional materials sufficient~~  
 660 ~~to receive and fill orders.~~

661 ~~(13) For the core subject areas specified in s.~~  
 662 ~~1006.40(2), ensure the availability of an inventory sufficient~~  
 663 ~~to receive and fill orders for instructional materials for~~  
 664 ~~growth, including the opening of a new school, and replacement~~  
 665 ~~during the 3rd and subsequent years of the original contract~~  
 666 ~~period.~~

667 ~~(14) Accurately and fully disclose only the names of those~~  
 668 ~~persons who actually authored the instructional materials. In~~  
 669 ~~addition to the penalties provided in subsection (16), the~~  
 670 ~~commissioner may remove from the list of state-adopted~~  
 671 ~~instructional materials those instructional materials whose~~

HB 1031

2013

672 ~~publisher or manufacturer misleads the purchaser by falsely~~  
 673 ~~representing genuine authorship.~~

674 Section 13. Subsections (2), (3), and (4) of section  
 675 1006.40, Florida Statutes, are amended to read:

676 1006.40 Use of instructional materials allocation;  
 677 instructional materials, library books, and reference books;  
 678 repair of books.—

679 (2) Each district school board must provide purchase  
 680 current instructional materials to ~~provide~~ each student ~~with a~~  
 681 ~~major tool of instruction~~ in core courses of the subject areas  
 682 of mathematics, language arts, science, social studies, reading,  
 683 and literature for kindergarten through grade 12. ~~Such purchase~~  
 684 ~~must be made within the first 2 years after the effective date~~  
 685 ~~of the adoption cycle. For the 2012-2013 mathematics adoption, a~~  
 686 ~~district using a comprehensive mathematics instructional~~  
 687 ~~materials program adopted in the 2009-2010 adoption shall be~~  
 688 ~~deemed in compliance with this subsection if it provides each~~  
 689 ~~student with such additional state-adopted materials as may be~~  
 690 ~~necessary to align the previously adopted comprehensive program~~  
 691 ~~to common core standards and the other criteria of the 2012-2013~~  
 692 ~~mathematics adoption.~~

693 (3)(a) By the 2015-2016 fiscal year, each district school  
 694 board shall use at least 50 percent of the annual allocation for  
 695 the purchase of digital or electronic instructional materials  
 696 that align with state standards ~~included on the state-adopted~~  
 697 ~~list, except as otherwise authorized in paragraphs (b) and (c).~~

698 ~~(b) Up to 50 percent of the annual allocation may be used~~  
 699 ~~for the purchase of instructional materials, including library~~

HB 1031

2013

700 ~~and reference books and nonprint materials, not included on the~~  
 701 ~~state-adopted list and for the repair and renovation of~~  
 702 ~~textbooks and library books.~~

703 ~~(c) District school boards may use 100 percent of that~~  
 704 ~~portion of the annual allocation designated for the purchase of~~  
 705 ~~instructional materials for kindergarten, and 75 percent of that~~  
 706 ~~portion of the annual allocation designated for the purchase of~~  
 707 ~~instructional materials for first grade, to purchase materials~~  
 708 ~~not on the state-adopted list.~~

709 (4) Remaining funds may ~~The funds described in subsection~~  
 710 ~~(3) which district school boards may use to purchase materials~~  
 711 ~~not on the state-adopted list shall~~ be used for the purchase of  
 712 instructional materials or other items having intellectual  
 713 content which assist in the instruction of a subject or course.  
 714 These items may be available in bound, unbound, kit, or package  
 715 form and may consist of hardbacked or softbacked textbooks,  
 716 electronic content, replacements for items which were part of  
 717 previously purchased instructional materials, consumables,  
 718 learning laboratories, manipulatives, electronic media, computer  
 719 courseware or software, and other commonly accepted  
 720 instructional tools as prescribed by district school board rule.

721 Section 14. Paragraphs (o) and (p) of subsection (6) of  
 722 section 1001.10, Florida Statutes, are amended to read:

723 1001.10 Commissioner of Education; general powers and  
 724 duties.—

725 (6) Additionally, the commissioner has the following  
 726 general powers and duties:

727 (o) To develop criteria for use by Department of Education

HB 1031

2013

728 ~~state~~ instructional materials reviewers in evaluating materials  
 729 submitted for approval ~~adoption~~ ~~consideration~~. The criteria  
 730 shall, as appropriate, be based on instructional expectations  
 731 reflected in course descriptions ~~curriculum frameworks~~ and  
 732 student performance standards. The criteria for each subject or  
 733 course shall be made available to publishers and manufacturers  
 734 of instructional materials pursuant to the requirements of  
 735 chapter 1006.

736 (p) To prescribe procedures for evaluating instructional  
 737 materials submitted by publishers and manufacturers in each  
 738 review for approval ~~adoption~~.

739 Section 15. Subsection (5) of section 1003.55, Florida  
 740 Statutes, is amended to read:

741 1003.55 Instructional programs for blind or visually  
 742 impaired students and deaf or hard-of-hearing students.—

743 (5) Any publisher or manufacturer of instructional  
 744 materials that have been approved by the Department of Education  
 745 or a school district ~~a textbook adopted pursuant to the state~~  
 746 ~~instructional materials adoption process~~ shall furnish the  
 747 department ~~of Education~~ with a computer file in an electronic  
 748 format specified by the department ~~at least 2 years in advance~~  
 749 that is readily translatable to braille and can be used for  
 750 large print or speech access. Any instructional materials  
 751 ~~textbook~~ reproduced pursuant to ~~the provisions of this~~  
 752 subsection shall be purchased at a price equal to the price paid  
 753 for the instructional materials ~~textbook~~ as approved ~~adopted~~.  
 754 The department ~~of Education~~ shall not reproduce instructional  
 755 materials ~~textbooks~~ obtained pursuant to this subsection in any

HB 1031

2013

756 manner that would generate revenues for the department from the  
 757 use of such computer files or that would preclude the rightful  
 758 payment of fees to the publisher or manufacturer for use of all  
 759 or some portion of the instructional materials ~~textbook~~.

760 Section 16. Paragraph (j) of subsection (2) of section  
 761 1003.621, Florida Statutes, is amended to read:

762 1003.621 Academically high-performing school districts.—It  
 763 is the intent of the Legislature to recognize and reward school  
 764 districts that demonstrate the ability to consistently maintain  
 765 or improve their high-performing status. The purpose of this  
 766 section is to provide high-performing school districts with  
 767 flexibility in meeting the specific requirements in statute and  
 768 rules of the State Board of Education.

769 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically  
 770 high-performing school district shall comply with all of the  
 771 provisions in chapters 1000-1013, and rules of the State Board  
 772 of Education which implement these provisions, pertaining to the  
 773 following:

774 (j) Those statutes relating to instructional materials,  
 775 except that ~~s. 1006.37, relating to the requisition of state-~~  
 776 ~~adopted materials from the depository under contract with the~~  
 777 ~~publisher, and s. 1006.40 1006.40(3)(a), relating to the use of~~  
 778 50 percent of the instructional materials allocation, is ~~shall~~  
 779 ~~be~~ eligible for exemption.

780 Section 17. Section 1010.82, Florida Statutes, is  
 781 repealed.

782 Section 18. Paragraph (b) of subsection (6) of section  
 783 1011.62, Florida Statutes, is amended to read:

784 1011.62 Funds for operation of schools.—If the annual  
 785 allocation from the Florida Education Finance Program to each  
 786 district for operation of schools is not determined in the  
 787 annual appropriations act or the substantive bill implementing  
 788 the annual appropriations act, it shall be determined as  
 789 follows:

790 (6) CATEGORICAL FUNDS.—

791 (b) If a district school board finds and declares in a  
 792 resolution adopted at a regular meeting of the school board that  
 793 the funds received for any of the following categorical  
 794 appropriations are urgently needed to maintain school board  
 795 specified academic classroom instruction, the school board may  
 796 consider and approve an amendment to the school district  
 797 operating budget transferring the identified amount of the  
 798 categorical funds to the appropriate account for expenditure:

- 799 1. Funds for student transportation.
- 800 2. Funds for safe schools.
- 801 3. Funds for supplemental academic instruction if the  
 802 required additional hour of instruction beyond the normal school  
 803 day for each day of the entire school year has been provided for  
 804 the students in each low-performing elementary school in the  
 805 district pursuant to paragraph (1)(f).
- 806 4. Funds for research-based reading instruction if the  
 807 required additional hour of instruction beyond the normal school  
 808 day for each day of the entire school year has been provided for  
 809 the students in each low-performing elementary school in the  
 810 district pursuant to paragraph (9)(a).
- 811 5. Funds for instructional materials if all instructional

HB 1031

2013

812 material purchases necessary to provide updated materials that  
 813 are aligned with applicable ~~to Next Generation Sunshine~~ state  
 814 standards and course descriptions ~~benchmarks~~ and that meet  
 815 statutory requirements of content and learning have been  
 816 completed for that fiscal year, but no sooner than March 1.  
 817 Funds available after March 1 may be used to purchase hardware  
 818 for student instruction.

819 Section 19. This act shall take effect July 1, 2013.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1031 Instructional Materials for K-12 Public Education  
**SPONSOR(S):** Porter  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1388

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	13 Y, 0 N	Beagle	Ahearn
2) Education Appropriations Subcommittee	12 Y, 0 N	Seifert	Heflin
3) Education Committee		Beagle <i>GB</i>	Mizereck <i>KLM</i>

### SUMMARY ANALYSIS

The law establishes a statewide process for the adoption of instructional materials. The Commissioner of Education must annually determine the academic areas in which instructional materials must be submitted for adoption. Instructional materials for each subject are adopted in five-year intervals. The commissioner appoints state instructional materials reviewers for content areas up for adoption. They review the instructional materials, evaluate the content for alignment with the Next Generation Sunshine State Standards, and recommend materials for inclusion on the state-adopted list.

The Department of Education (DOE) solicits bids from instructional materials publishers on the recommended list. After considering bids, the commissioner adopts instructional materials and contracts with every publisher with adopted instructional materials. Among other things, publishers must maintain a depository in the state, sufficient inventory to fill orders, and disclose the names of instructional materials authors.

School districts are responsible for the requisition, distribution, accounting, storage, care, and use of all instructional materials. Instructional materials must be requisitioned from the publisher's depository. School districts must use state funds for instructional materials to purchase material within the first two years of an adoption cycle. Fifty percent of the funds must be used to purchase digital instructional materials included on the state-adopted list, by FY 2015-16. The remaining 50 percent must be spent on instructional materials not on the state-adopted list.

The bill eliminates state instructional materials adoption and instead provides for review of instructional materials by either DOE or school boards. School districts are authorized to evaluate instructional materials submitted by publishers or refer submitted materials to DOE for review. The bill establishes standards for district and DOE review of instructional materials and authorizes the collection of fees from publishers who submit materials for review.

DOE must post on its website the list of DOE-approved instructional materials and those approved by other states, as "aligned to applicable standards," e.g., the Common Core State Standards in English Language Arts and Mathematics, which Florida has adopted.

Among other things, the bill eliminates the requirement that districts purchase instructional materials in the first two years of the adoption process. The bill eliminates elements of the adoption process from law, such as commissioner appointment of state instructional materials reviewers and provisions regarding DOE solicitation of bids and publisher contracting, deposits, bonds, depository, inventory, and author disclosure requirements.

The bill likely has a positive fiscal impact on DOE. The fiscal impact on school districts is indeterminate. See Fiscal Analysis & Economic Impact Statement and Drafting Issues or Other Comments.

The bill takes effect July 1, 2013.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Instructional Materials Adoption**

Under Florida law, "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> The law establishes a statewide process for the adoption of instructional materials. The Commissioner of Education must annually determine the academic areas in which instructional materials must be submitted for adoption.<sup>2</sup>

The law establishes a five-year instructional materials adoption cycle for each content area, unless a content area requires more frequent revision, in which case the commissioner may approve a lesser term. The Department of Education (DOE) annually publishes an official adoption schedule for each of the succeeding two years, and a tentative schedule for years three through six.<sup>3</sup>

**Instructional Materials Adoption Schedule<sup>4</sup>**

Adoption Year	Subject Area
2011-12	Social Studies, K-12
2012-13	English Language Arts, K-5
	Mathematics, K-5
2013-14	English Language Arts, 6-12
	Mathematics, 6-12
2014-15	World Languages, K-12
	Career and Technical Education
	Health/Physical Education
	English for Speakers of Other Languages, K-12
2015-16	Science, K-12
2016-17	Social Studies, K-12

The commissioner must appoint three state instructional materials reviewers who are state or national experts in the content areas submitted for adoption. Reviewers evaluate instructional materials for alignment with the applicable Next Generation Sunshine State Standards (NGSSS), and recommend materials for inclusion on a state-adopted list.<sup>5</sup> The third reviewer is only required when the first two reviewers disagree on placement of an item on the state-adopted materials list, in which case he or she acts as a "tie-breaker."<sup>6</sup> In addition to standards alignment, reviewers must also consider the:

- Age of students expected to use the materials.
- Educational purpose of the materials in relation to state and district performance standards and course description objectives.

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

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

<sup>3</sup> Section 1006.36(1), F.S.

<sup>4</sup> Florida Department of Education, *Instructional Materials Adoption Cycle* (May 2012), available at [http://www.fldoe.org/BII/instruct\\_mat/pdf/cycle.pdf](http://www.fldoe.org/BII/instruct_mat/pdf/cycle.pdf). Adoption years 2013-14, 2014-15, 2015-16, and 2016-17 are tentatively scheduled contingent on funding. *Id.*

<sup>5</sup> Section 1006.31(2), F.S.

<sup>6</sup> Section 1006.29(1)(b), F.S.

- Degree to which the materials will be supplemented by classroom instruction.
- Degree to which the materials represent the broad racial, ethnic, socioeconomic, and cultural diversity of students.<sup>7</sup>

Before each content area adoption, DOE publishes content specifications for instructional materials. These specifications detail the courses for which materials are sought, plus the standards the materials must meet.<sup>8</sup> DOE must advertise solicitation of bids from publishers with instructional materials on the recommended list. A publisher responding to the bid must submit samples of the instructional materials and bids must be accompanied by a deposit ranging from \$500 to \$2,500.<sup>9</sup> When all bids have been considered, the commissioner adopts from the recommended list instructional materials for each grade and subject in the public elementary, middle, and high school curriculum designated in the advertisement.<sup>10</sup>

Once instructional materials are adopted, DOE must contract with every bidder with adopted instructional materials. Publishers under contract with DOE must give bond in such amount as DOE requires, signifying their intent to fulfill the contract.<sup>11</sup> Among other things, instructional materials publishers who submit items for adoption must:

- Maintain or contract with a depository in the state.
- Maintain in the depository for the first two years of the contract an inventory of instructional materials sufficient to receive and fill orders.
- Ensure the availability of an inventory in core academic subjects<sup>12</sup> sufficient to cover any growth in demand.
- Disclose only the names of instructional materials authors.<sup>13</sup>

### **District School Board Duties**

District school boards are responsible for the requisition, distribution, accounting, storage, care, and use of all instructional materials. The district must ensure that instructional materials used in the district are consistent with the district's goals and objectives, as well as the curriculum frameworks adopted by the State Board of Education.<sup>14</sup> Superintendents must requisition adopted instructional materials from the publisher's depository.<sup>15</sup>

Among other things, superintendents are required to notify DOE of the state-adopted materials that will be purchased for use in their district. The notification must include the school board's plan for using the instructional materials, to assist DOE in determining whether adequate materials have been requisitioned.<sup>16</sup>

### **Instructional Materials Funding**

Funding for instructional materials is provided annually in the General Appropriations Act. School districts are required to:

<sup>7</sup> Section 1006.34(2)(b), F.S.

<sup>8</sup> Section 1006.33(1), F.S.

<sup>9</sup> Sections 1006.33(3) and 1006.34(2), F.S.

<sup>10</sup> Section 1006.34(2), F.S.

<sup>11</sup> Section 1006.34(3), F.S.

<sup>12</sup> Core academic subjects include mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12. Section 1006.40(2), F.S.

<sup>13</sup> Section 1006.38(11)-(14), F.S.

<sup>14</sup> Section 1006.28(1)(b), F.S.

<sup>15</sup> Sections 1006.37(1) and 1006.38(11), F.S.

<sup>16</sup> Section 1006.28(2)(b), F.S.

- Provide each student, in kindergarten through grade 12, current instructional materials in core courses of mathematics, language arts, science, social studies, reading, and literature.
- Purchase instructional materials within the first two years of an adoption cycle.
- Spend at least fifty percent of the funds to purchase digital or electronic instructional materials included on the state-adopted list, by FY 2015-16.
- Spend up to fifty percent of the funds on instructional materials that are not found on the state-adopted instructional materials list. However, funding may exceed the fifty percent cap for kindergarten (100%) and first grade (75%) instructional materials.<sup>17</sup>

### **Effect of Proposed Changes**

The bill eliminates state instructional materials adoption and instead provides for review and approval of instructional materials by either DOE or school districts. School districts are authorized to evaluate instructional materials submitted by publishers or refer submitted materials to DOE for review. Districts must establish procedures for evaluating instructional materials submitted by publishers.

If the school district chooses to review instructional materials, it must designate district staff who are experts in the content area to conduct reviews. Reviewers must review instructional materials for alignment to the NGSSS, level of instructional support, accuracy, and appropriate sequencing of content and make recommendations to the school board regarding materials that should be considered for use in district schools. Only instructional materials determined to be aligned to the NGSSS may be used.

School districts may collect fees from publishers who submit instructional materials for review; however, fees may not be charged for materials already reviewed by DOE. Districts must certify to DOE that all core instructional materials approved by the district are aligned with the NGSSS and evaluation standards.

The bill establishes requirements for DOE review and approval of instructional materials and authorizes the state board to collect fees from publishers who submit instructional materials for review. DOE must review instructional materials submitted by publishers or referred to it by school districts. The standards for such review are similar to those currently specified for state instructional materials reviewers. The bill prohibits approval of materials containing pornography or content for which sale to minors is prohibited.

DOE must post on its website the list of all school district- and DOE-approved instructional materials and those approved by other states, as “aligned to applicable standards.” Among other things, this will enable districts to capitalize on reviews conducted by other districts and, in the case of materials aligned to the Common Core State Standards in English Language Arts and Mathematics, other states.

The bill eliminates:

- The requirement that purchases be made in the first two years of the adoption process.
- Authorization to exceed the 50 percent cap on purchases of instructional materials not on the state-adopted list for kindergarten and first grade.
- Outdated requirements regarding the 2012-13 mathematics adoption.

The bill removes vestiges of the state adoption process made obsolete by the bill. The bill:

- Eliminates the requirement that superintendents notify DOE regarding state-adopted materials requisitioned by the district.
- Eliminates provisions requiring the commissioner to appoint three reviewers to review instructional materials for adoption.

- Shifts powers relating to instructional materials selection and adoption from the commissioner to the state board.
- Eliminates provisions regarding publisher bids, contracting, deposits, bonds, depository, inventory, and author disclosure requirements.

The bill also repeals statutory provisions:

- Authorizing an optional pilot program relating to transition to electronic and digital instructional materials.
- Relating to DOE advertising of requests for publisher bids.
- Requiring school districts to requisition instructional materials from publisher depositories.
- The Textbook Bid Trust Fund for holding publisher bids submitted to DOE.

These provisions are made obsolete by the bill.

Florida courts have held that the Legislature, when delegating authority to executive agencies or other entities, must establish minimal standards and guidelines ascertainable by reference to the legislation.<sup>18</sup> The bill authorizes school districts and the state board to collect fees from publishers who submit instructional materials for their review, but does not specify an amount or provide standards for determining the amount of the fee.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 1006.28, F.S., relating to Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials; authorizes school boards to review instructional materials for use by the school district; specifies requirements for review of instructional materials; authorizes the collection of fees from publishers; conforms provisions.

**Section 2.** Repeals s. 1006.282, F.S., relating to Pilot program for the transition to electronic and digital instructional materials; conforms provisions.

**Section 3.** Amends s. 1006.29, F.S., relating to State instructional materials reviewers; eliminates provisions regarding the appointment of state reviewers; requires DOE to post on its website information regarding approved instructional materials; conforms provisions.

**Section 4.** Amends s. 1006.30, F.S., relating to Affidavit of state instructional materials reviewers; conforms provisions.

**Section 5.** Amends s. 1006.31, F.S., relating to Duties of state instructional materials reviewers; specifies standards for DOE instructional materials review; eliminates reporting; conforms provisions.

**Section 6.** Amends s. 1006.32, F.S., relating to Prohibited acts; conforms provisions.

**Section 7.** Repeals s. 1006.33, F.S., relating to Bids, proposals, and advertisement.

**Section 8.** Amends s. 1006.34, F.S., relating to Powers and duties of the commissioner and DOE regarding instructional materials adoption; conforms provisions.

**Section 9.** Amends s. 1006.35, F.S., relating to Accuracy of instructional materials; conforms provisions.

**Section 10.** Amends s. 1006.36, F.S., relating to Term of adoption for instructional materials; conforms provisions.

**Section 11.** Repeals s. 1006.37, F.S., relating to Requisition of instructional materials from publisher's depository.

**Section 12.** Amends s. 1006.38, F.S., relating to Instructional materials publisher duties; eliminates provisions regarding publisher bids, contracts, bonds, and deposits.

**Section 13.** Amends s. 1006.40, F.S., relating to Use of instructional materials allocation; eliminates requirements regarding school district use of instructional materials funds; conforms provisions.

**Section 14.** Amends s. 1001.10, F.S., relating to Commissioner of Education; general powers; conforms provisions.

<sup>18</sup> *Askew v. Cross Key Waterways*, 372 So.2d 913, 924 (Fla. 1978); *Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).

**Section 15.** Amends s. 1003.55, F.S., relating to Instructional programs for blind or visually impaired students and deaf or hard-of-hearing students; conforms provisions.

**Section 16.** Amends s. 1003.621, F.S., relating to Academically High Performing School Districts; conforms provisions.

**Section 17.** Repeals s. 1010.82, F.S., relating to Textbook Bid Trust Fund.

**Section 18.** Amends s. 1011.62, F.S., relating to Funds for operation of schools; conforms provisions.

**Section 19.** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill authorizes the State Board of Education to charge publishers a fee for reviewing submitted instructional materials.

#### 2. Expenditures:

DOE will likely experience cost savings resulting from the elimination of publisher bid solicitation, advertising, and review requirements associated with the instructional materials adoption process.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

The fiscal impact of the bill on school districts is indeterminate. To the degree school districts choose to review instructional materials, costs will be incurred related to the hiring of reviewers and establishing the infrastructure necessary to conduct reviews.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill authorizes school districts to charge publishers a fee for reviewing submitted instructional materials. It is not possible to predict the amount of fees districts will collect or the degree to which fees will offset the district's cost to review instructional materials submitted by publishers.

## 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:

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Lines 80-83 and 436-439: Florida courts have held that the Legislature, when delegating authority to executive agencies or other entities, must establish minimal standards and guidelines ascertainable by reference to the legislation.<sup>19</sup> The bill authorizes school districts and the state board to collect fees from publishers who submit instructional materials for their review, but does not specify an amount or provide standards for determining the amount of the fee.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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<sup>19</sup> *Askew v. Cross Key Waterways*, 372 So.2d 913, 924 (Fla. 1978); *Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).



1                                   A bill to be entitled  
 2           An act relating to the Tallahassee-Leon County Civic  
 3           Center Authority, Leon County; abolishing the  
 4           authority; repealing chapter 2004-435, Laws of  
 5           Florida, relating to the charter of the authority;  
 6           designating the Tallahassee-Leon County Civic Center  
 7           as the "Donald L. Tucker Civic Center"; providing for  
 8           the erection of suitable markers; requiring the  
 9           Division of Alcoholic Beverages and Tobacco of the  
 10          Department of Business and Professional Regulation to  
 11          issue a beverage license to Florida State University  
 12          or its designee; transferring all assets and  
 13          liabilities of the authority to the university;  
 14          providing for applicability; providing an effective  
 15          date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Chapter 2004-435, Laws of Florida, is repealed.

20           Section 2. (1) The Tallahassee-Leon County Civic Center  
 21 at Florida State University is designated as the "Donald L.  
 22 Tucker Civic Center" and shall be referred to as such in all  
 23 publications, advertisements, notices, and other such documents  
 24 in recognition of the untiring and unselfish efforts of Donald  
 25 L. Tucker in his years of service as a representative of the  
 26 district encompassing Tallahassee and Leon County and in  
 27 recognition and appreciation of the invaluable service he has  
 28 provided to his constituency and to the state by his efforts in



29 bringing about the construction of the civic center complex.

30 (2) Florida State University is authorized and directed to  
 31 erect suitable markers, which shall include a marker over the  
 32 main entrance of the civic center, reflecting the name of the  
 33 civic center as described in subsection (1).

34 Section 3. In addition to any licenses that may be issued  
 35 under the provisions of the beverage law of the state, the  
 36 Division of Alcoholic Beverages and Tobacco of the Department of  
 37 Business and Professional Regulation shall issue a special  
 38 license or special licenses to qualified applicants consisting  
 39 of Florida State University or its designee for use within the  
 40 confines of the 20-acre civic center complex located within the  
 41 City of Tallahassee and known as the Donald L. Tucker Civic  
 42 Center; however, such license issued pursuant to this section  
 43 shall only permit the licensee to sell alcoholic beverages for  
 44 on-premises consumption, or off-premises consumption for events  
 45 sponsored through the civic center.

46 Section 4. The Tallahassee-Leon County Civic Center  
 47 Authority is abolished. All assets and liabilities of the  
 48 authority are transferred to Florida State University. The  
 49 property and assets of the authority are subject to legal  
 50 process for payment of any debts of the authority. After the  
 51 payment of all the debts of the authority, the remainder of the  
 52 authority's property and assets shall escheat to Florida State  
 53 University. This section does not require Florida State  
 54 University to comply with the terms or conditions of any  
 55 contract entered into by the authority before the effective date  
 56 of this act which has not been expressly assumed by the

HB 1285


2013

57 | university.

58 |       Section 5. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1285 Tallahassee-Leon County Civic Center Authority, Leon County  
**SPONSOR(S):** Williams  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	16 Y, 1 N	Nelson	Rojas
2) Education Committee		Brink 	Mizereck

**SUMMARY ANALYSIS**

HB 1285 repeals the special act that provides the charter for the Tallahassee-Leon County Civic Center Authority, and abolishes this independent special district.

The bill also designates the Tallahassee-Leon County Civic Center at Florida State University (FSU) as the "Donald L. Tucker Civic Center," and directs FSU to erect suitable markers reflecting the name of the civic center.

Additionally, this bill directs the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation to issue a special license or special licenses to qualified applicants consisting of FSU or its designee for use within the 20-acre civic center complex. Any such license may only permit the sale of alcoholic beverages for on-premises consumption, or off-premises consumption for events sponsored through the civic center.

Finally, the bill transfers all Authority assets and liabilities to FSU.

The act has an effective date of upon becoming a law.

**House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### The Tallahassee-Leon County Civic Center Authority

The Tallahassee-Leon County Civic Center Authority is an independent special district that was created by ch. 72-605, L.O.F. This local public agency was established for the purpose of planning, developing, operating and maintaining a complex of civic, governmental, educational, recreational, convention, and entertainment facilities for the use and enjoyment of the citizens of Leon County.<sup>1</sup>

The Authority currently consists of a 13-member board composed of seven members appointed by the President of FSU (one of these appointments to be elected chair), two members appointed by the President of Florida Agricultural and Mechanical University (FAMU), two members appointed by the Mayor of the City of Tallahassee, and two members appointed by the Chair of the Leon County Board of County Commissioners. All members are appointed to staggered four-year terms.

The Authority is authorized to:

- purchase, acquire, develop, construct, equip, maintain, and operate any auditorium, stadium, coliseum, or similar facility, and associated motor vehicle parking;
- acquire real and personal property by grant, purchase, lease, gift, devise, or condemnation, and to sell, lease, rent, transfer, or otherwise dispose of any property;
- borrow money and issue negotiable bonds, and, in general, to provide for the security of the bonds;
- fix and collect rates, rentals, fees and charges for the use of Authority facilities;
- provide through contract or in-house service for the operation of food and beverage, parking, and other concessions;
- make and enter into contracts and agreements and to employ consultants, engineers, superintendents, managers, construction and financial experts and attorneys, and other employees and agents;
- cooperate with and contract with the United States government or the state, or any agency or instrumentality thereof, or with any municipality, district, private corporation, copartnership, association, or individual;
- accept gifts of money or property, real or personal; and
- provide use of its facility for graduation ceremonies for FAMU, Tallahassee Community College, FSU, and the public high schools in Leon County.

##### The Civic Center

In 1976, the Authority, City of Tallahassee, Leon County and the State Board of Regents (the former governing body for the State University System) entered into an agreement to build and fund the civic center.<sup>2</sup> The cost was approximately \$33,000,000, with the following funding sources:

- \$12,176,500 Board of Regents (cash);
- 5,950,000 City of Tallahassee (land, cash and in-kind);
- 5,950,000 Leon County (cash);
- 3,190,000 Economic Development Administration (grant); and

<sup>1</sup> The boundaries of the Tallahassee-Leon County Civic Center Authority are coexistent with those of Leon County.

<sup>2</sup> Presently, the civic center facility is named the "Donald L. Tucker Civic Center."

- 6,000,000 State of Florida (general revenue funds).<sup>3</sup>

Construction of the facility was substantially completed in August 1981.

In 1998, the Authority and the Seminole Boosters (the fundraising arm of the FSU Athletics Program) issued bonds for a substantial renovation of the civic center. That debt was paid with a combination of funds from the civic center, general revenue appropriations from the Legislature, and funds from FSU.<sup>4</sup>

In 2003, the city and county entered into an amended agreement with the Authority in which both agreed to pay 50 percent of any annual operating deficit of the civic center up to \$125,000 each for a 40-year period.<sup>5</sup>

In 2004, the Authority's various special acts were codified into a single, comprehensive charter by HB 1159 (ch. 2004-435, L.O.F.). This bill also restructured the Authority's board to provide majority voting rights to FSU, and specified the intent of providing local authority and management services to the university,<sup>6</sup> while preserving selected authority of the special district.

In 2010, Tallahassee Hotel Associates, Ltd. filed suit against the Authority alleging fraud and breach of contract regarding an agreement to construct a hotel on Authority property.<sup>7</sup> That suit was settled with the city and county each paying \$250,000, and \$1,150,000 in FSU Foundation funds.<sup>8</sup>

The FSU Board of Trustees approved the purchase of the civic center on June 8, 2012,<sup>9</sup> and the Authority board voted unanimously to transfer the civic center to the university on June 13, 2012.<sup>10</sup> Following settlement of the law suit, and with the approval of the city and county commissions, the Authority entered into an agreement for the transfer of the civic center facility (including its land and associated personal property) to FSU on July 25, 2012. Consideration for the transfer included:

- satisfaction of a Sun Trust Bond Loan (\$4,474,058.16);
- assumption of a Sun Trust line of credit (\$1,240,307.48); and
- payment of the settlement contribution (\$1,150,000) for a total price of \$6,864,365.64.<sup>11</sup>

In 2012, the Leon County Property Appraiser assessed the civic center as having a market value of \$97,930,930.<sup>12</sup>

FSU then leased the facility back to the Authority for one year or until such time as a local bill could be enacted abolishing the special district, whichever occurred first. This lease agreement, also executed

<sup>3</sup> "A Brief Financial History of Civic Center," on file with the Local & Federal Affairs Committee.

<sup>4</sup> *Ibid.*

<sup>5</sup> This obligation was terminated when the civic center was transferred to FSU in 2012.

<sup>6</sup> It is not clear what these local authority and management services entailed. According to the notes to the "Financial Statements and Supplemental Financial Information for The Years Ended September 30, 2012 and 2011": FSU was not financially accountable for the Authority; did not participate in the designation of management of the Authority; did not have the ability to significantly influence operations and was not involved in any daily activities of the Authority; did not approve or disapprove the Authority's budget, and did not participate in preparing or reviewing the budget; did not exercise any control over collecting revenues, or disbursing of authority finds; and did not participate in establishing fees and charges, or in contract negotiations. *See*, [http://www.myflorida.com/audgen/pages/specialdistricts\\_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm](http://www.myflorida.com/audgen/pages/specialdistricts_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm).

<sup>7</sup> *Tallahassee Hotel Associates, Ltd. v. Tallahassee-Leon County Civic Center Authority*, Second Judicial Circuit for Leon County, Florida, Case No. 2010-CA-004369.

<sup>8</sup> *See, supra*, note 3.

<sup>9</sup> June 15, 2012, memorandum from Andy Haggard, Board Chairman, to Eric J. Barron, FSU President.

<sup>10</sup> June 13, 2012, minutes of the Tallahassee-Leon County Civic Center Authority.

<sup>11</sup> FSU also paid \$67,123.00 in closing costs.

<sup>12</sup> April 2, 2013, e-mail from Carolyn Egan, FSU General Counsel.

on July 25, 2012, requires no payments from the Authority to FSU, and may be extended for a successive option period of one year.<sup>13</sup>

FSU has agreed to the appointment of a Civic Center Advisory Board for the purpose of advising FSU with respect to the continued use and availability of the civic center to individuals and community groups outside of FSU. The Advisory Board will meet at the call of the chair, at least three times per year, and will consist of three members appointed by the city, three members appointed by the county, one member appointed by FAMU and eight members appointed by FSU. All appointments are to be made within 30 days of the effective date of a special act dissolving the Authority.<sup>14</sup>

### **Dissolution of an Independent Special District**

Chapter 189, F.S., the "Uniform Special District Accountability Act of 1989," provides general provisions for the definition, creation and operation of special districts. That chapter also contains several provisions relating to the dissolution of these districts.

Section 189.4042, F.S., describes general merger and dissolution procedures. Section 189.4042 (3), F.S., provides for the dissolution of an active independent special district, in relevant part:

*Voluntary dissolution.*—If the governing board of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to dissolve the district, the voluntary dissolution of an independent special district created and operating pursuant to a special act may be effectuated only by the Legislature unless otherwise provided by general law.

*Other dissolutions.*—In order for the Legislature to dissolve an active independent special district created and operating pursuant to a special act, the special act dissolving the active independent special district must be approved by a majority of the resident electors of the district....

Section 189.4042(3)(d), F.S., provides that s. 189.4045, F.S., governs the financial allocations of the assets and indebtedness of a dissolved independent special district. This statute provides that:

[u]nless otherwise provided by law or ordinance, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government, which also assumes all indebtedness of the preexisting special district.

### **Effect of Proposed Changes**

HB 1285 repeals ch. 2004-435, L.O.F., the special act that provides the charter for the Tallahassee-Leon County Civic Center Authority, and abolishes this independent special district. The Authority's board voted to dissolve the special district on April 9, 2012.<sup>15</sup>

The bill provides that the Tallahassee-Leon County Civic Center at FSU is designated as the "Donald L. Tucker Civic Center," and will be referred to as such in all publications, advertisements, notices, and other such documents "in recognition of the untiring and unselfish efforts of Donald L. Tucker in his years of service as a representative of the district encompassing Tallahassee and Leon County and in

<sup>13</sup> "Lease Agreement Between Florida State University Board of Trustees and Tallahassee-Leon County Civic Authority Regarding the Donald L. Tucker Civic Center and Surrounding Land," dated July 25, 2012.

<sup>14</sup> Third Amendment to Agreement Between the City of Tallahassee, Leon County, Florida, Tallahassee-Leon County Civic Center Authority, the Florida State University and Florida Board of Governors, dated June 28, 2012.

<sup>15</sup> Section 2(3) of the Authority's charter provides that a majority of the members constitutes a quorum. In this case, the seven members in attendance vote unanimously in favor of dissolution. Thus, the special act dissolving the Authority does not require approval by a majority of the electors of Leon County.

recognition and appreciation of the invaluable service he has provided to his constituency and to the state by his efforts in bringing about the construction of the civic center complex.” The bill also directs FSU to erect suitable markers, which includes a marker over the main entrance of the civic center, reflecting the name of the civic center. These provisions are similar to language relating to the Authority in ch. 2004-435, L.O.F., the act being repealed by this bill.

Additionally, the bill directs the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a special license or special licenses to qualified applicants consisting of FSU or its designee for use within the confines of the 20-acre civic center complex. Any such license may only permit the sale of alcoholic beverages for on-premises consumption, or off-premises consumption for events sponsored through the civic center.

Generally, an entity must obtain either a consumption-on premise (package) license for beer and wine or a quota license for liquor in order to sell alcoholic beverages. There are no restrictions on the number of package licenses issued, but quota licenses are limited based on county population. The Division may also issue special licenses to certain specified entities (which includes civic center authorities or a civic center owned by a political subdivision)<sup>16</sup> meeting very specific requirements. These licenses are not limited in number and are not included in the quota license limitations although they authorize the sale of liquor.<sup>17</sup>

The bill transfers all Authority assets and liabilities to FSU. Section 189.4045, F.S., provides that, unless otherwise provided by law, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government (i.e., either a city or county), which also assumes the indebtedness of the special district. Thus, the transfer of the Authority to a university varies from the general law standard, but is certainly contemplated by that statute through the passage of a special act.

Additionally, the bill specifies that the assets of the Authority are subject to legal process for payment of any of its debts and that, after payment of all debts, the remainder of the Authority's assets escheat to FSU. FSU has indicated that the Authority has no real or personal property at this point given that the sale of the civic center closed in July 2012, transferring ownership to FSU.

According to the “Financial Statements and Supplemental Financial Information for The Years Ended September 30, 2012 and 2011,”<sup>18</sup> an independent auditor's report, as of September 30, 2012, the Authority had total assets of \$24,645,127 and total liabilities of \$9,894,244. However, it appears that these figures fail to accurately reflect the Authority's financials, as the numbers do not vary significantly between 2011 and 2012, the year when the Authority divested itself of its property. All in all, it appears impracticable to predict what the assets and liabilities of the Authority will be at the time of its dissolution.

Finally, the bill's provisions do not require FSU to comply with the terms or conditions of any contract entered into by the Authority that has not been expressly assumed by the university. On July 25, 2012, FSU executed an assumption of leases and contracts disclosed at that time.<sup>19</sup> These contracts included numerous agreements for the lease of suites, and with various vendors. Currently, the university is conducting an inventory of any additional contractual obligations and intends to address these individually.<sup>20</sup> Nonetheless, the university has indicated that it intends to assume all Authority contracts.

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<sup>16</sup> Section 1.01(8), F.S., provides that the term “political subdivision” includes counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.

<sup>17</sup> Section 561.20, F.S.

<sup>18</sup> [http://www.myflorida.com/audgen/pages/specialdistricts\\_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm](http://www.myflorida.com/audgen/pages/specialdistricts_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm).

<sup>19</sup> April 1, 2013, e-mail from Carolyn Egan, General Counsel, Florida State University.

<sup>20</sup> *Ibid.*

FSU also intends to absorb the 20-30 Authority employees, except for the executive director, who will soon retire.<sup>21</sup>

The act has an effective date of upon becoming a law.

**B. SECTION DIRECTORY:**

Section 1: Repeals ch. 2004-435, L.O.F., relating to the Tallahassee-Leon County Civic Center Authority.

Section 2: (1) Designates the Tallahassee-Leon County Civic Center at FSU as the "Donald L. Tucker Civic Center," and (2) authorizes and directs FSU to erect suitable markers.

Section 3: Directs the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a special alcoholic license to FSU or its designee.

Section 4: Abolishes the Tallahassee-Leon County Civic Center Authority; transfers its assets and liabilities to FSU; provides for express assumption of contracts.

Section 5: Provides an effective date.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 19, 2013<sup>22</sup>

WHERE? The *Tallahassee Democrat*, a daily newspaper of general circulation published in Leon County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

<sup>21</sup> April 4, 2013, meeting with Carolyn Egan, General Counsel, Florida State University.

<sup>22</sup> A second notice was published on February 2, 2013.



## C. DRAFTING ISSUES OR OTHER COMMENTS:

### Drafting Issues

It is possible that several of the provisions in the bill relating to FSU could be characterized as a "general law of local application." *See, Schrader v. Florida Keys Aqueduct Authority*, 840 So.2d 1050 (2003), which provides that a general law "...operates universally throughout the state, or uniformly upon subjects as they may exist throughout the state, or uniformly within permissible classifications by population of counties or otherwise, or is a law relating to a state function or instrumentality." *See*, also, page four of the Guidelines for Bill Drafting, House Bill Drafting Service (2011), which provides that a statute relating to regions of the state or to subjects or to persons or things as a class, based upon proper distinctions and differences that are peculiar or appropriate to the class, is a "general law of local application." Examples of potential bases for classifications would be: all coastal counties, all counties which permit sales of alcoholic beverages by the drink or all counties having an elected school superintendent. Other examples would include acts which relate to a particular circuit court, a state university, or to the state capitol building.

### Other Comments

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

1285

TALLAHASSEE DEMOCRAT  
PUBLISHED DAILY  
TALLAHASSEE-LEON-FLORIDA

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2013 Legislature, or 2013 Legislative Sessions, or 2013 Legislature and any Special or Extended Sessions, for passage of an act relating to Leon County, repealing in part and revising in part chapter 2004-435, Laws of Florida, relating to the Tallahassee-Leon County Civic Center Authority; providing an effective date.

PUBLICATION: February 2, 2013

STATE OF FLORIDA COUNTY OF LEON:  
Before the undersigned authority personally appeared Gladys L. Chelette, who on oath says that he or she is a Legal Advertising Representative of the Tallahassee Democrat, a daily newspaper published at Tallahassee in Leon County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

LEGAL NOTICE

In the Second Judicial Circuit Court was published in said newspaper in the issues of:

February 2, 2013

Affiant further says that the said Tallahassee Democrat is a newspaper published at Tallahassee, in the said Leon County, Florida, and that the said newspaper has heretofore been continuously published in said Leon County, Florida each day and has been entered as periodicals matter at the post office in Tallahassee, in said Leon County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

GLADYS L. CHELETTE

LEGAL ADVERTISING REPRESENTATIVE

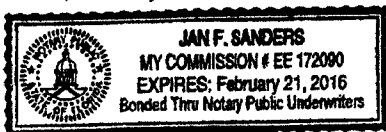
Sworn to and Subscribed before me.

This 4<sup>th</sup> Day of July 2013, by  
Gladys L. Chelette, Gladys Chelette  
Personally Known

OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

(SEAL)



Notary Public  
State of Florida  
County of Leon

*Jan F. Sanders*

HOUSE OF REPRESENTATIVES

2013 LOCAL BILL CERTIFICATION FORM

BILL #: TBD HB1285/SB1084

SPONSOR(S): Rep. Alan Williams, Sen. William Montford

RELATING TO: The Tallahassee-Leon County Civic Center Authority, abolishing the Authority and transferring assets and liabilities to Florida State University  
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Leon County Legislative Delegation

CONTACT PERSON: Rep. Alan Williams

PHONE NO.: (850) 717-5008 E-Mail: alan.williams@myfloridahouse.gov

- I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

**(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?**

YES  NO

**(2) Did the delegation conduct a public hearing on the subject of the bill?**

YES  NO

Date hearing held: February 4, 2013

Location: City Hall, Tallahassee, Leon County, Florida

**(3) Was this bill formally approved by a majority of the delegation members?**

YES  NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met? Yes

Notice published: YES  NO  DATE February 2, 2013

Where? Tallahassee Democrat (newspaper) County Leon

Referendum in lieu of publication: YES  NO

Date of Referendum n/a

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO  NOT APPLICABLE


(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO  NOT APPLICABLE

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO  n/a

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.

  
Delegation Chair (Original Signature) 2/4/13  
Date

Senator Bill Montford, Dist 3  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES  
2013 ECONOMIC IMPACT STATEMENT FORM**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

**BILL #:** TBA HB1285/SB1084

**SPONSOR(S):** Rep. Alan Williams

**RELATING TO:** The Tallahassee-Leon County Civic Center Authority, abolishing the Authority and transferring assets and liabilities to Florida State University  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:**

	<u>FY13-14</u>	<u>FY 14-15</u>
Expenditures:	\$5.5M*	\$5.5M*

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

	<u>FY 13-14</u>	<u>FY 14-15</u>
Federal:	none	none
State: General Revenue Fund	\$250k**	
Local:	none	none

\*\*Source of Funding number based on FSU's request for PO&M funding for 21,500 square feet of the facility. Estimates for FY 14-15 are not available at this time, but will probably be the same.

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

	<u>FY 13-14</u>	<u>FY 14-15</u>
Revenues:	\$5.5M*	\$5.5M*

\*These estimated expenditures and revenues would have otherwise applied to the Civic Center Authority, but will be new costs and revenues to FSU as a result of the acquisition of the Civic Center and the abolishment of the Authority. Though it is difficult to estimate costs and revenues, we anticipate that FSU will roughly break even during FY 13-14 and FY 14-15.

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:**

**Advantages:**

City of Tallahassee and Leon County will be relieved of their continuing obligations to fund the Civic Center's potential operating deficits; FSU is assured of a functioning facility for athletic and commencement activities; general public, city, and county enjoy the continuing recreational and economic benefits of a functioning Civic Center.

**Disadvantages:** Potential for some operating deficit, which will have to be funded by FSU or one of its Direct Support Organizations.

**V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT: None**

**VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]: Civic Center operating budget for FY 12-13, projected FSU budget request for FY 13-14.**

PREPARED BY:  2/9/13  
[Must be signed by Preparer] Date

TITLE: Chief of Staff

REPRESENTING: Florida State University

PHONE: 850-644-3035

E-Mail Address: dcoburn@fsu.edu



