

- SUBJECT:** Funding school instructional materials and educational technology
- COMMITTEE:** Select Committee on Public Education Reform — committee substitute recommended
- VOTE:** 4 ayes — Grusendorf, Eissler, Delisi, B. Keffer
0 nays
1 absent — Branch
- WITNESSES:** No public hearing
- BACKGROUND:** Texas Constitution, Art. 7, sec. 3 requires the State Board of Education (SBOE) to set aside sufficient funds to provide free textbooks for the use of children attending public school. Under Education Code, ch. 31, textbooks for each subject in the state’s Foundation School Program are reviewed and adopted on a six-year cycle by the SBOE. Early in the adoption process, the SBOE issues a request, called a "proclamation," for publishers to bid for new materials. The SBOE sets a maximum price for textbooks in each subject area. Funds are appropriated and textbooks are purchased about four years after this proclamation is issued.
- In 2003 the 78th Legislature, facing significant budget constraints, decided to provide partial funding for textbooks, appropriating \$344 million and deferring \$145 million in purchases of some English-as-a-second-language and all career and technology textbooks until fiscal 2006-07.
- In 2005 the 79th Legislature, in HB 10 by Pitts, appropriated \$175 million to cover textbook purchases delayed in 2003 but did not fund textbooks scheduled for delivery for the 2005-06 school year (Proclamation 2002). These include textbooks for health education, fine arts, physical education, and languages other than English and American Sign Language.
- For each subject and grade level, the SBOE adopts two separate lists of textbooks. The “conforming list” contains textbooks that meet manufacturing standards, have been reviewed for factual accuracy, and cover each element of the Texas essential knowledge and skills (TEKS) for each subject and grade level. The “nonconforming list” contains

textbooks that meet the same manufacturing and accuracy standards and cover at least half, but not all, of the TEKS curriculum. The SBOE also establishes the maximum cost of textbooks as part of the adoption process, and state funds may be used to purchase books on either the conforming or nonconforming list.

School districts buy textbooks with state funds appropriated to the Texas Education Agency (TEA) for this purpose. The State Textbook Fund consists of a distribution from the Available School Fund in an amount determined by the Legislature. School districts submit textbook requests to TEA, which submits the orders to textbook companies and pays for textbooks and related instructional materials from the State Textbook Fund.

In addition to textbook funds, school districts also receive a “technology allotment” of \$30 per student, or an amount determined by appropriation, to help buy electronic textbooks and other electronic instructional materials and services. For fiscal 2004-05, TEA distributed \$242 million in general revenue to school districts for the technology allotment.

The 78th Legislature in 2003 enacted SB 396 by Shapleigh, which authorized TEA to establish a three-year technology immersion pilot (TIP) project in which each student in a participating school receives a laptop computer or other wireless mobile computing device, software, online courses, and other learning technologies that have been shown to improve academic achievement, efficiency, teacher performance and retention, parental and community involvement, and proficiency in technologies that prepare students for the workplace.

DIGEST:

CSHB 62 would appropriate approximately \$291 million to TEA for fiscal 2005 for the purchase of textbooks included in Proclamation 2002 for the following subjects: languages other than English (\$40.8 million), American Sign Language (\$0.26 million), health education (\$107 million) and fine arts (\$143.1 million). The bill also would appropriate \$35 million in federal funds for fiscal 2005 for the expansion of the technology immersion pilot (TIP) program.

Starting in fiscal 2006, the bill would appropriate an additional \$65 million to TEA to fund technology grants authorized by CSHB 62. These funds would be contingent on the availability of funds appropriated to or in the control of the General Land Office, and any unexpended balance

would carry over to fiscal 2007. For fiscal 2007, CSHB 62 would appropriate \$300 million in general revenue funds to TEA for the instructional materials and technology allotment.

The bill would replace references in current statutes to textbooks with “instructional materials,” including books, supplementary materials, workbooks or a combination of these three, computer software, magnetic media, DVDs, CD-ROM, computer courseware, online services, electronic media, or other means of conveying information to a student.

The technology allotment would be changed to an “instructional materials and technology” allotment and increased to \$100 per ADA beginning September 1, 2006, and \$150 per ADA beginning September 1, 2007. Districts would be required to use \$50 of the \$100 allotment and \$60 of the \$150 allotment to fund targeted technology programs, provide technology training for teachers, and acquire other infrastructure, components, and technologies necessary to enhance student performance. The Legislative Budget Board (LBB) would have to conduct a biennial study of the cost of school district targeted technology programs and report to the Legislature before each regular session. Each biennium, the LBB and TEA would have to conduct a joint performance evaluation of school district targeted technology programs.

The bill would repeal statutes governing the textbook review, adoption, pricing, and distribution process, eliminate conforming and nonconforming textbook lists, and allow school districts and charter schools to purchase instructional materials directly from the publisher or through the Texas Department of Information Resources (DIR) by means of a blanket purchase order.

The bill would establish a review process by which publishers at any time could submit instructional material to the SBOE with a statement identifying the essential knowledge and skills for a subject and grade level that the material covered. The SBOE would have to review each instructional material, determine whether it covered the essential knowledge and skills identified in the submission, and identify the degree to which it complied with the essential knowledge and skills.

Each approved instructional material would have to be free from factual errors. The SBOE would have to adopt rules authorizing administrative penalties against publishers who knowingly failed to promptly correct any

factual errors discovered by the SBOE. In setting penalties, the SBOE would have to consider the stage of the review process at which the failure occurred and set progressively higher penalties for failures that occurred later in the process.

The SBOE would have to meet bi annually to approve instructional materials, approving or rejecting them no later than the second biannual meeting held for approving instructional materials after submission. By majority vote, the board would approve an instructional material unless it determined, based on its own review, that the material did not contain the essential knowledge and skills identified by the publisher in the submission. The board would have to identify the essential knowledge and skills for a subject and grade level that an approved material covered.

For each subject and grade level, the SBOE would list approved instructional materials, periodically review the list, and, by majority vote, remove materials that the board determined no longer adequately covered essential knowledge and skills. School districts and charter schools would not have to select instructional materials approved by the SBOE, but would have to certify to TEA annually that each student was receiving instructional materials aligned with essential knowledge and skills adopted by the board for that subject and grade level.

The SBOE would adopt a five-year cycle for reviewing the essential knowledge and skills of each subject in the required curriculum. The SBOE could not modify the curriculum in a manner intended to benefit a specific publisher of instructional materials or another vendor of educational projects or technology.

School districts and charter schools would select instructional materials and, using funds allotted for instructional materials and technology, either purchase the materials directly from the publisher or through the DIR if the materials had been approved by the SBOE. The DIR would issue a blanket purchase order with the publisher of approved instructional materials under which a school district could requisition instructional materials. TEA, with the assistance of DIR, the SBOE, and the Office of the Attorney General, would develop model contracts that public schools could use for the purchase or licensing of instructional materials.

TEA would provide technology grants of \$300 for each student enrolled at an eligible campus or charter school. TEA would ensure that schools

receiving technology grants reflected the demographic and geographic diversity of the state. Technology grants could be used by public schools only to purchase:

- wireless electronic mobile computing devices;
- productivity software and hardware, including writing, computation, presentation, printing and communication tools;
- electronic learning software aligned with TEKS;
- library and other research tools;
- electronic assessment tools;
- electronic learning tools to improve communications among students, teachers, school administrators, parents, and the community; and
- classroom and school management systems.

Technology grants also could be used to train teachers in technology and to acquire other infrastructure, components, and technologies necessary to enhance student performance.

The bill would expand the TIP to include each high school to which a school district regularly assigned students who attended 8th grade in 2004-05 at a school that participated in the pilot project.

To the extent practicable and appropriate, TEA would require school districts to administer the TAKS test by computer by May 1, 2007. TEA could adopt rules governing computer-adaptive assessments and delay the release of TAKS test questions and answer keys as necessary to implement computer-adaptive testing. TEA also would have to acquire or develop ongoing, computer-adaptive interactive assessment tools for each grade-level TAKS test. TEA would set aside up to \$11.5 million from the Foundation School Program to pay the cost of acquiring or developing these tests.

The bill would create an advisory committee for technology and implementation to assist TEA and permit the agency to monitor changing technology in business, industry, and education. The TEA commissioner — in consultation with the lieutenant governor, the speaker of the House, and the chairs of the Senate Education Committee and the House Public Education Committee — would appoint members from the business and education community and public members. The SBOE could appoint one member.

TEA would be required to conduct a review of state and federally funded grant programs and incentives designed to improve student academic performance and would have to actively determine the extent to which these grant funds could be used to enhance or expand the use of technology in public schools. The agency would report its findings to the Legislature by December 1, 2006.

Unless otherwise specified, CSHB 62 would take effect immediately if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect 91 days after the last day of the legislative session (November 18, 2005, if the second called session lasts a full 30 days).

**SUPPORTERS
SAY:**

CSHB 62 would pay for new textbooks for the upcoming school year while also moving public education in Texas into the 21st century by merging textbook and technology funding beginning in fiscal 2007. School districts would continue to have the option of purchasing textbooks, but they also would have the flexibility and choice of using the allotment for instructional materials and technology funding to meet a wider array of needs, such as the purchase of laptop computers for the delivery of instructional materials. Other states and school districts already are implementing this vision successfully with positive results. For continued economic growth and improved employment opportunities, Texas cannot afford to fall behind in providing a modern learning environment. Public education should follow the example of business in embracing technology as an integral part of its operations.

Investing in technology is expensive, and the bill likely would not fund all of a district's technology needs. But most school districts have used the current \$30 technology allotment to develop technology programs, and additional funding would allow them to expand on that basic programming. Districts also could use their own resources to provide enough funding to cover the "total cost of ownership," including maintenance, upkeep, replacement, training, insurance, and other elements in a technology program.

The bill would establish a technology grant program to provide additional technology funding for districts that apply and qualify for these grants. This grant program would be funded through a specific appropriation in the bill that would be dependent on the availability of funding from the General Land Office. In order to receive a grant, school districts and

charter schools would have to commit to spending \$50 per student in other funds for technology programs. This would help ensure that schools that received these grants had “bought in” to the program by providing a share of the funding.

This grant program would provide the level of funding needed to meet the total cost of ownership that is critical to the success of technology programs. These funds could be used to buy equipment and to provide ongoing training essential to successful use of technology in the classroom. To address concerns about a “digital divide,” the bill would direct TEA to ensure that grants reflected the demographic and geographic diversity of the state.

The bill would break the near monopoly of a handful of publishing giants in providing textbooks and related materials for Texas students and allow state funding for instructional materials to be used for technology as well. For too long, textbook publishers — with the encouragement and support of the elected SBOE — have benefited from a system that sets prices and locks out competitors years before the final product is purchased. The bill would end a process in which textbooks are updated every six years while information and technology evolve at a far more rapid pace. Textbook publishers that currently are developing materials as part of Proclamation 2004 would have the opportunity to sell these materials directly to school districts. These publishers cannot continue to hold the state accountable for a system in which financial commitments are made years before the product is purchased.

The bill would set up a process to ensure that instructional materials were reviewed in a timely manner, were free of factual errors, and contained appropriate instructional content. Instructional materials would be reviewed on an ongoing basis, rather than every six years, to ensure that they met state requirements for curriculum content. The bill would enhance the role of the SBOE by giving the board the authority to review a broader array of instructional materials.

School districts would have more flexibility in determining their own funding levels for instructional materials and technology, depending on their existing resources. Rather than having to select from conforming and nonconforming lists of approved materials, districts could select from the wide array of products on the market and choose instructional materials that support their curriculum.

The bill would provide a strong incentive for school districts to convert to online testing by imposing a deadline of May 1, 2007, for TEA to provide online assessment materials and for school districts to administer the TAKS test online, if practicable and appropriate. This is not a “hard” deadline, but it would signal to school districts the long-term direction in which the state is headed.

OPPONENTS
SAY:

Most school districts are not prepared to make the full-scale transition to technology-based instruction envisioned by this bill, and CSHB 62 would not provide sufficient resources to both fund textbooks and to cover the full array of technology expenses it would take to support and maintain this level of technology-based instruction. Investments in technology would be wasted if a school district could not commit enough resources to cover maintenance, upkeep, replacement, training, insurance, and other elements that make up the “total cost of ownership” in a technology program. While a textbook is durable, and paper workbooks can be replaced from year to year, a laptop computer would require regular maintenance and oversight to ensure that it was being used appropriately. In many subjects, such as the study of literature, printed books are superior to technology-based materials.

CSHB 62 should include requirements for categorical funding to ensure that school districts did not spend too much on hardware and too little on instructional content. Texas has invested in and is a national leader in tying accountability standards to assessments and instructional materials. Without adequate controls, the quality of this system could be compromised.

This bill would diminish Texas’ influence on the instructional materials development process at many publishing companies. Without the advance commitment of funds and timelines for adoption, companies would not create project timelines to coincide with Texas’ schedule. The more than 800 school districts with enrollments of fewer than 2,000 students would get little attention in marketing and sales efforts if the state adoption cycle disappeared. Once each district could determine what it wanted, when it wanted, the larger school districts would receive the sales, marketing, and implementation attention, but the smaller districts would have difficulty selecting and securing instructional materials in a timely manner. Protections in current law designed specifically to ensure that small, rural districts receive the same priority from publishers as larger districts would be eroded.

The bill would leave textbook publishers that are two years into the adoption process for Proclamation 2004 with no assurances that the state will maintain its commitment to this funding cycle. This could open the door to lawsuits in which the state could be vulnerable for abandoning its commitment to textbook publishers. Any transition away from the current adoption and purchasing process should be undertaken gradually enough that all existing financial commitments to textbook publishers are honored.

Changing the SBOE's review process to a biannual review and approval process would diminish the authority of the SBOE and the content quality of the instructional materials. Allowing SBOE, by majority vote, to remove approved materials that the board determined no longer adequately covered essential knowledge and skills would open the door to board rejection of materials based on subjective criteria. The bill should require the SBOE to provide publishers with notice if their materials were removed from the approved list.

If state funds were allocated for instructional materials, schools should be required to spend those funds on SBOE-reviewed and approved materials, regardless of the materials' format. All materials — print or electronic — should meet the same review and approval requirements. Removing the requirement that districts select instructional materials approved by the SBOE would eliminate the incentive for publishers to go through the approval process.

The technology grant program would widen the "digital divide" by requiring school districts to commit \$50 per student in order to participate in the program. Districts already strapped for funding to meet basic instructional needs would not have the resources to participate in the program.

The bill would encourage districts to move to online testing when this may not be the best method for the state's current high-stakes accountability system. These summative assessments are designed to measure specific knowledge and to control for other variables, such as environment, test time, and other factors. These factors would be easier to control with the current paper-and-pencil system than with the online system envisioned by the bill. Online testing would be costly, and the benefits would not justify the expense.

OTHER
OPPONENTS
SAY:

The Legislature should not commit additional funding for technology programs before it has made a commitment to providing a significant pay raise for teachers and other professionals and restored the health insurance passthrough for all employees. The bill would divert \$300 million in general revenue in fiscal 2007 before these other issues have been addressed.

NOTES:

According to the fiscal note, CSHB 62 would cost the state an estimated \$687 million in general revenue-related funds in fiscal 2006-07.

The committee substitute would increase the appropriation from the General Land Office funds from \$60 million to \$65 million, require the SBOE to adopt a five-year cycle for reviewing elements of the required curriculum, and require TEA to develop or acquire ongoing, adaptive computer assessment tools.

HB 51 by Nixon and SB 38 by Shapiro would state legislative intent that the appropriation for provision of textbooks in HB 1 by Pitts, enacted in the first called session, refer to \$295 million for Proclamation 2002 textbooks for the 2005-06 school year and that the timely delivery of textbooks for the upcoming school year be expedited. SB 37 by Eltife/Ellis includes the same provision, but also would increase salaries for teachers and other professionals by \$1,000 in each of the next two years and restore the full \$1,000 health insurance passthrough for all public school employees.

The provisions in CSHB 62 relating to instructional materials and technology are substantially similar to those in HB 2 by Grusendorf, which failed to pass the House during the current called session on July 26.