

SUBJECT: Mid-cycle review of textbooks and expansion of textbook credit program

COMMITTEE: Public Education — committee substitute recommended

VOTE: 7 ayes — Eissler, Zedler, Branch, Delisi, Hochberg, Mowery, Patrick

0 nays

2 absent — Dutton, Olivo

WITNESSES: For — Amy Beneski, Texas Association of School Administrators; Jennifer Cannaday, Association of Texas Professional Educators; Holly Eaton, Texas Classroom Teachers Association; Julie Shields, Texas Association of School Boards; David Thompson, Association of American Publishers

Against — None

BACKGROUND: 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 State Board of Education (SBOE). 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 non-conforming 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. State funds may be used to purchase books on either the conforming or nonconforming list. Publishers are required to provide every school district and charter school with information describing each textbook as well as two sample copies of each adopted textbook to every regional education service center in the state.

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 2001, the Legislature established a pilot program to study the use of credits in buying textbooks. The program, which started with 10 districts in 2002 and ended with 30 districts in 2004, allowed participating districts to claim credits equal to the difference between the price paid for a textbook and the maximum limit on the textbook cost established by the SBOE. The credits could be applied toward the purchase of additional textbooks on the conforming or nonconforming list.

DIGEST:

CSHB 188 would require the SBOE to adopt rules for reviewing and adopting textbooks in subjects that are not currently under review as part of the regular textbook cycle.

The textbook publisher would have to pay the cost of the mid-cycle review and adoption, contract with the SBOE for the end of the textbook term to coincide with other textbook terms in the same subject and grade level, and commit to a method of providing the textbook to school districts. Publishers could provide textbooks to any district in a specified regional service center area or provide a certain maximum number of textbooks.

These publishers would not be required to provide sample copies to every regional service center and school district upon request. Textbooks adopted in mid-cycle would have to be included on conforming and nonconforming lists adopted by the SBOE for each subject and grade level.

The bill also would establish a statewide textbook credit program, beginning with the 2007-08 school year. Any school district or charter school would be eligible for textbook credits equal to the difference between the price paid for a textbook and the maximum limit on the textbook cost established by the SBOE, multiplied by the number of textbooks purchased. Half of the price difference would be credited to the state textbook fund, and half to the school district or charter school. Textbook credits could be applied toward the purchase of additional textbooks on the conforming or nonconforming list or their components, including electronic components.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 188 would bring more competition to the public school textbook market by offering small and mid-sized publishers a less costly and time-consuming alternative to the six-year textbook review and adoption process. In large states like Texas, the cost and complexity of this process create significant barriers to entry for small and mid-sized publishers. It requires a significant investment of time and money before any profits are realized, and publishers must have the ability to provide approved materials to school districts throughout the state. Smaller publishers serving a more limited market or lacking the ability to provide materials for the entire state have difficulty competing in this environment. The bill would remove some of these barriers by eliminating requirements that every adopted textbook be made available to school districts throughout the state and allowing publishers to serve a targeted region or provide a maximum number of materials.

CSHB 188 would offer school districts greater access to high quality materials because publishers would be able to provide updated materials at closer intervals than the current six-year textbook adoption cycle. These materials would be subject to the same rigorous review that textbooks undergo as part of the regular cycle and would be subject to the same rules regarding placement on conforming and nonconforming lists. Publishers would be responsible for any costs associated with the mid-cycle review process.

While large publishers would not be prohibited from participating in the mid-cycle review process, they would be unlikely to do so because school districts would continue to purchase most textbooks as part of the regular textbook cycle. Larger publishers that are accustomed to meeting the requirements of the regular adoption process would not have a financial incentive to offer their products as part of the mid-review cycle. If these publishers began to use mid-cycle reviews as a way to avoid the effort and expense of the regular adoption cycle, the SBOE could adopt rules limiting participation or the Legislature could address the problem in the future.

CSHB 188 also could create downward pressure on textbook prices and save money for the state and school districts by establishing a statewide

textbook credit system. The bill could help foster competition between textbook publishers by providing an incentive to lower prices in order to capture market share. According to the LBB, more than 70 percent of textbook publishers surveyed during a three-year pilot program responded that they would consider lowering textbook prices if the credit program were expanded statewide.

The textbook credit pilot program, which was conducted between 2001 and 2004 and included 30 school districts in its final year, showed promising results. Participating school districts received textbook credits totaling more than \$160,000, which could then be used to purchase additional textbooks or other related materials. The LBB estimates that a statewide textbook credit program could generate savings of about \$5.6 million per year in 2010 and beyond for both the state and school districts.

**OPPONENTS
SAY:**

CSHB 188 could provide an incentive for large publishers to bypass the effort and expense involved in the regular textbook adoption cycle and instead submit materials for mid-cycle review. The bill should limit participation in the mid-cycle review and adoption process to small and mid-sized publishers. The SBOE should not be responsible for determining whether or not large publishers are abusing the process and should be prohibited from participating in mid-cycle reviews.

NOTES:

The committee substitute added the section requiring the SBOE to adopt rules governing the mid-cycle review of textbooks.

The LBB estimates that a statewide textbook credit program could generate savings of about \$5.6 million per year starting in fiscal 2010 and beyond for both the state and school districts, with a projected saving for both the state and school districts of about \$4.4 million in fiscal 2009. The mid-cycle textbook review process would cost TEA an estimated \$437,049 annually, but this cost would be covered by the fee paid by publishers.