

- SUBJECT:** Adoption, review, funding, and purchase of instructional materials.
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 8 ayes — Eissler, Aycock, Dutton, Huberty, Shelton, T. Smith, Strama, Weber
- 0 nays
- 3 absent — Hochberg, Allen, Guillen
- WITNESSES:** For — Bruce Ellis, Dallas ISD, Texas Computer Education Association, and Technology Coordinator’s Special Interest Group; Candace Threadgill, Texas Computer Education Association and Klein ISD; Micha Villarreal, Texas Computer Education Association, Technology Coordinator’s Special Interest Group, and Ysleta ISD; John Fuller; Thomas Ratliff; (*Registered, but did not testify:* Jennifer Bergland, Texas Computer Education Association; Jennifer Canaday, Association of Texas Professional Educators (ATPE); Dana Chiodo, Technology Association of America; Ed Lopez, Promethean; Casey McCreary, Texas Association of School Administrators (TASA); Don Rogers, Texas Rural Education Association; Julie Shields, Texas Association of School Boards; Geoff Wurzel, Tech Net)
- Against — None
- On — David Anderson, Texas Education Agency; Anita Givens, Texas Education Agency; Pat Hardy; (*Registered, but did not testify:* Alex Smith, Mexican-American Legal Defense and Educational Fund (MALDEF))
- BACKGROUND:** The Texas Constitution requires that the State Board of Education (SBOE) set aside sufficient funds from the Available School Fund (ASF) to provide free textbooks for each student in the state's public education system. The Legislature then appropriates the amount distributed to the ASF from the PSF for textbooks, the Technology Allotment, and other school finance areas.
- Instructional materials adoption and requisition.** The SBOE adopts all instructional materials used in the classroom, including manuals for

teachers and supplementary materials, such as workbooks for students. The Education Code directs the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of textbooks. The SBOE is authorized to set the maximum price for which a textbook will be purchased using state textbook funds.

The board is charged with determining the cycle by which the board periodically reviews textbooks and adopts new ones. The purchase of new textbooks may be postponed if the content is still current. All reviews must be announced to the public two years before they take place.

The Education Code dictates that the SBOE review textbooks for the foundation curriculum— mathematics, social studies, science, and English and Language Arts—every six years, and does not permit more than one-sixth of the textbooks for a subject to be reviewed in the same adoption cycle. The SBOE may determine the adoption cycle for textbooks for the enrichment curriculum as it deems appropriate.

The SBOE assigns each approved textbook, including open-source textbooks, to either the conforming or non-conforming list. The conforming list includes textbooks that cover all elements of the essential knowledge and skills in the student and teacher versions of the textbook. The non-conforming list includes textbooks that contain at least half, but not all, of the elements of the essential knowledge and skills in the student and teacher versions of the textbook. Information must be provided to school districts that details the essential knowledge and skills not covered by the non-conforming materials.

The SBOE requires publishers to provide complete descriptions of newly adopted instructional materials to all school districts and open-enrollment charter schools.

A school district's board of trustees must select materials for mathematics, science, social studies, English, language arts, and reading from either the conforming or non-conforming lists to receive state appropriations. A school district may elect to purchase non-adopted textbooks for enrichment curriculum subjects, such as health, but state appropriations will cover only a portion of the cost. State textbook funds will pay up to the maximum per-student cost as set by the school board for textbooks chosen from the conforming list. The state will fund a portion of the purchase price for textbooks chosen from the non-conforming list in an

amount equal to the percentage of the essential knowledge and skills addressed in the textbook.

SBOE rules allow shipments to be made to school districts throughout the summer. Districts are allowed to submit orders throughout the school year.

**Technology Allotment.** The Technology Allotment is used to distribute state funds to school districts to support use of technology in schools. It is distributed to school districts at a specific rate per student in average daily attendance. School districts have discretion to use the funds for the purchase of, and training educational personnel in the use of, electronic textbooks or technical equipment that contributes to learning.

**Political contributions to SBOE campaigns.** It is a criminal offense for a person engaged in manufacturing, shipping, selling, or advertising textbooks or otherwise connected with the textbook business to make or authorize a political contribution to or take part in the campaign of any person seeking election to or serving on the SBOE.

DIGEST:

CSHB 6 would repeal the Technology Allotment and the current system by which textbooks and instructional materials are purchased for school districts by establishing the Instructional Materials Allotment. The bill would move the economics course requirement to the foundation curriculum from the enrichment curriculum to allow it to fulfill the social studies component of the high school graduation requirements.

The bill would replace references to “textbook” with “instructional material” throughout the Education Code. Instructional material would include a book, supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, online services, or an electronic medium, open-source material, or any combination thereof.

**Instructional Materials Allotment.** The commissioner of education would maintain an instructional materials account for each school district. The commissioner would transfer an allotment annually to each school district’s instructional materials account from the State Instructional Materials Fund, which would be funded from the annual distribution from the Permanent School Fund to the Available School Fund. The commissioner would determine the per-student allotment amount based on the amount of money in the State Instructional Materials Fund.

*Permanent School Fund distribution.* The SBOE would have to set aside 50 percent of the annual distribution from the Permanent School Fund to the Available School Fund to fund:

- the Instructional Materials Allotment;
- the purchase of special instructional materials for the education of blind and visually impaired students in public schools;
- the instructional materials adoption and review process;
- the purchase or licensing of open-source instructional material to the extent authorized by the general appropriations act; and
- the purchase of instructional material.

The bill would require the set aside calculation to exclude amounts distributed from the Permanent School Fund to the Available School Fund for fiscal 2009-10. This provision would expire September 1, 2014.

*Per-student allotment amount.* A school district's annual allotment entitlement would be determined by the number of students enrolled in school district during the preceding school year and the per student allotment amount determined by the commissioner. The commissioner could adjust the district's number of students if the commissioner determined another number would be more accurate. The school district could request an adjustment by May 31 of each school year if the district's enrollment were expected to increase or decrease. The commissioner's determination of school district enrollment would be final. The commissioner would have to determine a procedure for identifying high enrollment growth districts and would have to adjust the allotment for these districts accordingly.

*Use of the allotment.* The allotment could be used to purchase technological equipment; materials on the commissioner's list; instructional (including open-source), bilingual, consumable (such as workbooks), and supplemental materials. At the end of each year, the school district would have to certify to the commissioner that the district's allotment was used for permitted expenses.

School districts and open-enrollment charter schools would have to use the allotment to purchase a sufficient quantity of new instructional materials or technological equipment adopted by the SBOE. A school district would have to certify annually to the SBOE and the commissioner that the district provided each student with sufficient instructional materials.

A school district with an unused account balance could carry over those funds into the next biennium.

Open-enrollment charter schools would receive an annual allotment in the same manner as a school district. A juvenile justice alternative education program (JJAEP) would receive an amount determined by the commissioner, and the commissioner's determination would be final.

The allotment could be used to make purchases under current contracts in effect on September 1, 2011. The allotment could be used to pay for training certain educational personnel and to employ technical support staff for technological equipment.

*Bilingual materials.* The bill would transfer the responsibility of purchasing bilingual materials from the SBOE to the district.

*Online requisition.* The commissioner would be required to maintain an online purchase request system for school districts to request materials to be purchased with the allotment.

**Instructional materials adoption.** CSHB 6 would not require the SBOE to review and adopt instructional materials for all grade levels in a single year. The bill would require the SBOE to prioritize instructional materials for foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses above the instructional materials for enrichment curricula.

The bill would extend to eight years the time between instructional materials reviews of materials for foundation curriculum subjects. The bill would require that no more than one-fourth of the foundation curriculum instructional materials be reviewed each biennium.

Publishers would have to submit instructional materials in digital format upon request.

*Instructional materials list.* The SBOE no longer would assign materials to a conforming or non-conforming list. The SBOE would have to identify the percentage of essential knowledge and skills of the subject and grade level covered by each instructional material submitted for adoption, and the material would have to cover at least half of the essential knowledge

and skills for the subject and relevant grade level. The list would be provided to school districts, and the board's determination of this percentage would be final.

*Commissioner's list.* The commissioner would be required to adopt a list of electronic instructional materials and certain science materials for kindergarten through grade 5.

**Fees to parents.** The bill would prohibit a school district from charging a student for instructional material or technological equipment purchased by the district with the district's Instructional Materials Allotment. A school district could charge a fee to students to cover the cost of insuring technological equipment, but the district would have to adopt a policy to waive or reduce the fee for low-income families. Students could not be held financially responsible for any loss of or damage to technological equipment in the student's possession.

**Instructional material ownership.** Printed material would be the property of the state except if the material were purchased with the district's Instructional Material Allotment, in which case the material would be the district's property upon its discontinuation by the SBOE or the commissioner. Any electronic material or technology equipment purchased with the district's Instructional Material Allotment would be the property of the school district.

An open-enrollment charter school could sell printed instructional materials upon their discontinuation by the SBOE or the commissioner, but the proceeds would have to be used to purchase instructional materials. An open-enrollment charter school or school district could sell electronic instructional materials and technological equipment upon their discontinuation by the SBOE or the commissioner, but the proceeds would have to be used to purchase instructional materials. The school district's board of trustees and the charter school's governing body would have the authority to determine how dispose of discontinued materials.

The bill would repeal the requirement that the SBOE adopt rules to make copies of discontinued textbooks, other than electronic textbooks, available for use in libraries, Texas Department of Criminal Justice facilities, or other state agencies. The bill would repeal the requirement that the SBOE adopt rules to allow a school district or open enrollment charter school to donate discontinued textbooks, other than electronic

textbooks, to a student, an adult education program, or a non-profit organization.

**Political contributions to SBOE campaigns.** CSHB 6 would allow a person engaged in manufacturing, shipping, selling, or advertising textbooks or otherwise connected with the textbook business to make or authorize a political contribution to, or take part in the campaign of, any person seeking election to or serving on the SBOE. The change would not be retroactive and current law, which prohibits such action, would apply to actions before September 1, 2011.

**Other provisions.** The bill would remove the requirement that the SBOE publish notice for the adoption of materials. The SBOE would not set a maximum price for instructional materials. The bill no longer would require a school district to purchase a classroom set of SBOE-approved textbooks for each subject and grade level. The bill would no longer require TEA to maintain a data portal for online courses or instructional materials.

*Materials for the blind and visually impaired.* The bill would transfer the authority to purchase special instructional materials for the blind and visually impaired from the SBOE to the commissioner.

**Rulemaking and effective date.** The bill would grant rulemaking authority to the commissioner of education to implement various portions of the bill. It would take effect September 1, 2011.

SUPPORTERS  
SAY:

CSHB 6 would move the state from distributing textbooks and technological equipment to distributing money to school districts to purchase these items.

**Preserve SBOE authority.** The bill would preserve SBOE authority to review and adopt instructional materials. The state should move away from conforming and non-conforming lists and instead rely on a list of materials reviewed by the SBOE with identification of the percentage of essential knowledge and skills covered in each material.

**Flexibility to school districts.** The SBOE would be required to identify the percentage of essential knowledge and skills covered in each instructional material. This would allow districts the flexibility to choose

from the approved lists or any other materials available to ensure that together the materials covered each of the essential knowledge and skills elements. School districts would have maximum flexibility to buy the type of instructional materials that suit each class of students.

The new allotment would allow school districts to level the playing field across student populations by providing access to technology and of-the-moment information for low-income students who might not otherwise have access to the material. Providing a student with the ability to use technology would better prepare students for higher learning and for the workforce. It also would allow teachers to teach students how to discern appropriateness of sources of information on the internet.

*Maintain control of content.* It is appropriate for the state to maintain control over the content used in classrooms. Technology already is being used in classrooms either by individual students with smart phones or by school districts that can afford the equipment. The bill would allow the state to regulate the content of these materials to ensure they met the rigor and curriculum standards adopted by the SBOE.

**Increase relevance.** The bill would increase the relevance of instructional materials content because online and open-source materials can be updated quicker and more frequently with less cost than updates to printed materials. The current system has allowed high schools to have extremely out-of-date materials, which hinders students' ability to learn. Journalism textbooks, for example, that do not mention the internet and are more than 20 years old sit on the shelves, but with increased technology in the classroom, students could receive real time updates from major new sources.

Teachers work hard to provide relevant lessons but, because of the way technology is funded in the state, they do not have the right resources. Great teachers use a variety of instructional resources, and CSHB 6 would increase the number of resources available. The bill also would allow the allotment to be spent to train educators to use this technology to the benefit of students.

OPPONENTS  
SAY:

CSHB 6 should provide a mechanism for low-property-wealth school districts to buy technological devices that other districts already have in order to increase equity.



Removing the requirement that those involved in the textbook industry not contribute to or participate in a campaign for the SBOE would allow those with a financial interest in SBOE decisions to unduly influence board members.

While the bill would provide increased flexibility for school districts, the bill could hold school districts to the same per-student allotment for many years without adjustments for inflation. Other allotments for school districts, such as the transportation allotment, have not been increased on a per student basis since their inception. School districts could experience a decrease in instructional materials funding long term.

The bill would decrease the number of essential knowledge and skills elements covered in classrooms because school administrators could overlook the need to cover all of them in order to buy the newest technology.

**NOTES:**

The fiscal note indicates that the state would experience a net savings of about \$159 million in fiscal 2012-13 and \$721 million in fiscal 2014-15.