

BILL ANALYSIS

Senate Research Center

H.B. 4
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Education
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Technology funding for school districts has remained near the same level for the last decade. H.B. 4 sets out criteria to increase technology access for Texas school children by promoting greater technology in schools. Students need to become technology literate in order to gain the necessary skills needed for the workforce of the 21st Century. Texas needs to regain its momentum in educational technology by dedicating funds for technology education. H.B. 4 offers a solution of creating better technology advancements and training for students in Texas schools.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 18 (Section 31.003, Education Code), SECTION 21 (Section 31.030, Education Code), and SECTION 32 (Section 31.201, Education Code), of this bill.

Rulemaking authority is expressly granted to the State Board of Education in SECTION 22 (Section 31.032, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 36 (Section 32.005, Education Code) and SECTION 41 (Section 39.0232, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 7, Education Code by adding Section 7.030, as follows:

Sec. 7.030. REVIEW OF STATE- AND FEDERALLY-FUNDED GRANT PROGRAMS. (a) Requires the Texas Education Agency (TEA) to conduct a review of state- and federally-funded grant programs and incentives designed to improve student academic performance and to actively determine the full extent to which funds awarded under those programs may be used to enhance or expand the use of technology in public schools. Authorizes the commissioner of education (commissioner), as appropriate, to issue a waiver to one or more schools for purposes of removing barriers to and encouraging the use of technology in public schools,

(b) Requires TEA, not later than December 1, 2006, to submit a report regarding the findings of the review conducted under this section to the legislature. Requires the report to include a summary of promising practices for current grant programs that leverage technology. Provides that this section expires January 15, 2007.

SECTION 2. Amends Section 7.055(b)(28), Education Code, to require the commissioner to perform duties relating to the funding, adoption, and purchase of instructional materials, rather than textbook, under Chapter 31 (Textbooks).

SECTION 3. Amends Section 7.056(f), Education Code, to make a conforming change.

SECTION 4. Amends Section 7.102(c)(23), Education Code, to make a conforming change.

SECTION 5. Amends Sections 7.108(a) and (c), Education Code, as follows:

(a) Makes a conforming change.

(c) Defines "instructional material." Deletes existing definition of "text book."

SECTION 6. Amends the heading to Section 7.112, Education Code, to read as follows:

Sec. 7.112. REPRESENTATION OF PUBLISHER OF INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

SECTION 7. Amends Section 7.112(a), Education Code, to make conforming changes.

SECTION 8. Amends Section 7.112(c)(2), Education Code, to define "instructional material" and "publisher." Deletes existing definitions of "publisher" and "textbook."

SECTION 9. Amends Section 11.158(b), Education Code, to make conforming changes.

SECTION 10. Amends Section 11.164(a), Education Code, to make conforming changes.

SECTION 11. Amends Section 19.007(e), Education Code, to make a conforming change.

SECTION 12. Amends Sections 26.006(a) and (c), Education Code, as follows:

(a) Makes a conforming change.

(c) Defines "instructional material." Deletes existing definition for "textbook." Makes conforming changes.

SECTION 13. Amends Sections 28.002(c) and (h), Education Code, to make conforming changes.

SECTION 14. Amends Subchapter A, Chapter 28, Education Code, by adding Section 28.010, as follows:

Sec. 28.010. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a) Requires TEA to develop or acquire ongoing, computer-adaptive, interactive, assessment tools for each subject and grade level for which an assessment instrument is adopted under Section 39.023.

(b) Requires TEA, from funds appropriated for the purpose, to make assessment tools developed or acquired under this section available to public schools at no cost.

SECTION 15. Amends the heading to Chapter 31, Education Code, to read as follows:

CHAPTER 31. INSTRUCTIONAL MATERIALS

SECTION 16. Amends Section 31.001, Education Code, as follows:

Sec. 31.001. New heading: FREE INSTRUCTIONAL MATERIALS. Requires, instructional materials, rather than textbooks, selected for use in the public schools to be furnished without cost to the students attending those schools in accordance with Section 3(b) (Independent School Districts and Junior College Districts; Taxes and Bonds; Changes in Boundaries), Article VII, Texas Constitution.

SECTION 17. Amends Sections 31.002(1), (2), and (4), Education Code, to define "instructional material." Redefines "publisher" and "technological equipment." Deletes existing definition of "electronic textbook."

SECTION 18. Amends Section 31.003, Education Code, to authorize the State Board of Education (SBOE) to adopt rules, consistent with this chapter, for the approval, rather than adoption, requisition, distribution, care, use, and disposal of instructional materials, rather than textbooks.

SECTION 19. Amends the heading to Subchapter B, Chapter 31, Education Code, to read as follows:

SUBCHAPTER B. STATE APPROVAL

SECTION 20. Amends Subchapter B, Chapter 31, Education Code, by adding Sections 31.0251 and 31.0252, as follows:

Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS; AGENCY REVIEW. (a) Authorizes a publisher to submit at any time submit an instructional material to SBOE for approval. Requires a publisher, as part of a submission, to include a statement that identifies in writing the essential knowledge and skills for a subject and grade level as determined by the board under Section 28.002 (Required Curriculum) that the instructional material covers.

(b) Sets forth certain review and determination requirements for TEA.

Sec. 31.0252. APPROVAL BY STATE BOARD OF EDUCATION. (a) Requires SBOE to meet quarterly to approve instructional materials submitted under Section 31.0251. Requires SBOE to approve or reject each submitted instructional material not later than the second meeting held under this section after the date the instructional material was submitted.

(b) Require SBOE, by majority vote, to approve an instructional material submitted under Section 31.0251 unless SBOE determines, based on TEA's review or SBOE's own review, that the instructional material does not contain the essential knowledge and skills identified by the publisher in the submission. Requires SBOE to identify the essential knowledge and skills for a subject and grade level that an approved instructional material covers.

(c) Requires each approved instructional material to be free from factual errors.

(d) Requires SBOE, for each subject and grade level, to list the approved instructional materials. Requires SBOE to periodically review and modify the list.

SECTION 21. Amends Sections 31.026-31.030, Education Code, as follows:

Sec. 31.026. CONTRACT; PRICE. (a) Authorizes the Department of Information Resources (DIR), rather than requires SBOE, to execute a contract for the purchase or licensing of each approved instructional material. Deletes existing text referring to electronic textbooks.

(b) Requires a contract to require the publisher to provide all of the approved instructional materials, required by public schools, rather than school districts, in this state for the term of the contract. Deletes existing text pertaining to SBOE's adoption cycle. Makes a conforming change.

(c) Requires a contract, as applicable, to provide for the purchase or licensing of instructional materials at a price determined through negotiation between the publisher and DIR that does not exceed the lowest price paid by any other state or any school or school district. Requires the price to be fixed for the term of the contract. Makes conforming and nonsubstantive changes.

(d) Requires DIR to execute a blanket purchase order with the publisher of an approved instructional material. Authorizes a school district or open-enrollment charter school to requisition instructional materials under the purchase order.

(e) Requires TEA and DIR to enter into an interagency contract specifying each agency's duties regarding the purchasing and licensing of instructional materials.

(f) Authorizes the contract to allow the publisher of an approved instructional material to update the material as provided by Section 31.032.

Sec. 31.027. New heading: INFORMATION TO PUBLIC SCHOOLS; SAMPLE COPIES. Requires a publisher to provide each public school, rather than school district and open-enrollment charter school, with information that fully describes each of the publisher's approved instructional materials, rather than adopted textbooks. Deletes existing text requiring a publisher to provide a sample copy of an adopted textbook. Makes a conforming change.

Sec. 31.028. New heading: SPECIAL INSTRUCTIONAL MATERIALS. (a) Authorizes SBOE to provide for, rather than purchase, special instructional materials, rather than textbooks, for the education of blind and visually impaired students in public schools. Requires SBOE to provide a teacher's edition in Braille or large type, as requested by the teacher, for each printed instructional material, rather than textbook, for a teacher who is blind or visually impaired. Makes conforming changes.

(b) Makes conforming changes.

(c) Requires SBOE to require electronic instructional materials submitted for approval under Section 31.0251 to comply with the standards established under Section 508, Rehabilitation Act of 1973 (29 U.S.C. Section 794d) for students enrolled in certain institutions. Deletes existing text authorizing SBOE to enter into agreements providing for the acceptance, requisition, and distribution of special textbooks and instructional aids pursuant to 20 U.S.C. Section 101 et seq.

(d) Redefines "blind or visually impaired student." Defines "special instructional materials." Deletes existing definition for "special textbook."

Sec. 31.029. New heading: BILINGUAL INSTRUCTIONAL MATERIALS. Makes a conforming change.

Sec. 31.030. New heading: USED INSTRUCTIONAL MATERIALS. Makes conforming changes.

SECTION 22. Amends Subchapter B, Chapter 31, Education Code, by adding Sections 31.031 and 31.032, as follows:

Sec. 31.031. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL MATERIALS. Authorizes the publisher of an approved electronic instructional material to offer the material to public schools on an annual subscription basis.

Sec. 31.032. UPDATING INSTRUCTIONAL MATERIALS. Authorizes the publisher of an approved instructional material to, under the terms of a contract under Section 31.026, update the instructional material. Requires SBOE by rule to provide for an expedited review process to make certain determinations regarding the instructional material.

SECTION 23. Amends Subchapter C, Chapter 31, Education Code, by adding Sections 31.1012 and 31.1013, as follows:

Sec. 31.1012. LOCAL SELECTION AND PURCHASE. (a) Sets forth certain requirements pertaining to the selection and purchase of instructional materials for school districts and open-enrollment charter schools.

(b) Provides that a school district or open-enrollment charter school is not required to select an instructional material that is approved by SBOE.

Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL MATERIALS. Requires each school district and open-enrollment charter school to annually certify to the agency that, for each subject in the required curriculum and each grade level, the district or school provides each student with instructional materials that are aligned with the essential knowledge and skills adopted by SBOE for that subject and grade level.

SECTION 24. Amends Section 31.102, Education Code, as follows:

(a) Makes a conforming change.

(b) Makes a conforming change.

(c) Requires the board of trustees of a school district or the governing body of a charter school to distribute instructional materials to students in the manner that the board or governing body determines is most effective and economical. Makes conforming changes.

SECTION 25. Amends Sections 31.104-31.106, Education Code, as follows:

Sec. 31.104. DISTRIBUTION AND HANDLING. (a) Makes conforming changes.

(b) Authorizes a school district or open-enrollment charter school to order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials. Deletes existing text referring to the publisher or manufacturer of textbooks. Makes conforming changes.

(c) Authorizes SBOE to require the publisher of a textbook that is required to be returned by a student under Subsection (d) to place a bar code with a unique identifying number on the textbook. Makes conforming changes.

(d) Makes conforming changes.

(e) Makes a conforming change.

Sec. 31.105. New heading: SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL MATERIALS. (a) Authorizes the board of trustees of a school district or governing body of an open-enrollment charter school may sell instructional materials, other than electronic instructional materials, to a student or another school at a price determined by board rule, rather than a state contract price. Authorizes money from the sale of instructional materials to be used only to purchase items that may be purchased lawfully using the allotment provided by Section 32.005. Makes conforming changes.

(b) Authorizes the board of trustees of a school district or governing body of an open-enrollment charter school to take certain actions subject to any applicable licensing agreement. Deletes existing text referring to a state textbook fund.

Sec. 31.106. USE OF LOCAL FUNDS. Makes conforming changes.

SECTION 26. Amends the heading to Section 31.151, Education Code, to read as follows:

Sec. 31.151. DUTIES OF PUBLISHERS.

SECTION 27. Amends Sections 31.151(a), (b), and (d), Education Code, as follows:

(a) Makes modifications to the list of requirements for the publisher of instructional materials, rather than the publisher or manufacturer of textbooks. Makes conforming changes.

(b) Makes a conforming change.

(d) Requires a penalty collected under this section to be deposited to the credit of the foundation school, rather than state textbook, fund.

SECTION 28. Amends the heading to Section 31.152, Education Code, to read as follows:

Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS.

SECTION 29. Amends Sections 31.152(a), (b), and (d), Education Code, as follows:

(a) Makes a conforming change.

(b) Makes conforming changes.

(d) Redefines "gift, favor, or service."

SECTION 30. Amends the heading to Section 31.153, Education Code, to read as follows:

Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS LAW.

SECTION 31. Amends Section 31.153(a), Education Code, to make a conforming change.

SECTION 32. Amends Subchapter E, Chapter 31, Education Code, as follows:

SUBCHAPTER E. DISPOSITION OF INSTRUCTIONAL MATERIALS

Sec. 31.201. New heading: DISPOSITION OF INSTRUCTIONAL MATERIALS. (a) Authorizes the commissioner of education (commissioner), with the approval of SBOE, to provide for the disposition of certain materials.

(b) Makes conforming changes.

(c) Requires SBOE to adopt rules under which a public school, rather than a school district or open-enrollment charter school, may donate certain discontinued instructional materials to a student, to an adult education program, or to a nonprofit organization. Makes conforming changes.

SECTION 33. Amends Subchapter A, Chapter 32, Education Code, by adding Section 32.0011, as follows:

Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND IMPLEMENTATION. (a) Requires the commissioner, in consultation with the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and the house of representatives with jurisdiction over the agency, to appoint an advisory committee of business, education, and public members to assist TEA and permit TEA to monitor changing technology in business, industry, and education.

(b) Provides that the advisory committee is subject to Chapters 551 and 552, Government Code.

SECTION 34. Amends Sections 32.002 and 32.003, Education Code, as follows:

Sec. 32.002. New heading: AUTHORITY OF PUBLIC SCHOOL. Makes a conforming change.

Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. Makes a conforming change.

SECTION 35. Amends the heading to Section 32.005, Education Code, to read as follows:

Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT.

SECTION 36. Amends Section 32.005, Education Code, by amending Subsections (a) and (b) and adding Subsection (a-1), effective September 1, 2005, as follows:

(a) Entitles each school district or open-enrollment charter school to an allotment of \$70, rather than \$30, for each student in average daily attendance or a different amount for any year provided by appropriation.

(a-1) Requires a school district, from the funds the district receives under Subsection (a), the district to use an amount equal to \$40 for each student in average daily attendance to fund targeted technology programs under Section 32.006. Requires a school district to use funds for targeted technology programs in a manner that allows each student and teacher assigned to a targeted campus, grade level on a campus, or specific educational program to benefit from a targeted technology program. Requires the commissioner to adopt rules concerning the use of funds under this subsection. Provides that this subsection expires September 1, 2006.

(b) Makes modifications to the list of authorized uses of an allotment under this section.

SECTION 37. Amends Section 32.005, Education Code, by amending Subsection (a) and adding Subsection (a-1), effective September 1, 2006, as follows:

(a) Entitles each school district or open-enrollment charter school to an allotment of \$150, rather than \$30, for each student in average daily attendance or a different amount for any year provided by appropriation.

(a-1) Requires a school district, from the funds the district receives under Subsection (a), to use an amount equal to \$60 for each student in average daily attendance to fund targeted technology programs under Section 32.006. Requires a school district to use funds for targeted technology programs in a manner that allows each student and teacher assigned to a targeted campus, grade level on a campus, or specific educational program to benefit from a targeted technology program. Requires the commissioner to adopt rules concerning the use of funds under this subsection.

SECTION 38. Amends Subchapter A, Chapter 32, Education Code, by adding Sections 32.006 and 32.007, as follows:

Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Requires each school district to use funds designated for targeted technology programs under Section 32.005(a-1) in accordance with this section and in a manner consistent with the long-range plan developed by the State Board of Education under Section 32.001 and the district's own technology plan. Authorizes a school district to use funds from other sources, including grants, donations, and state and federal funds, to provide targeted technology programs.

(b) Requires a targeted technology program to make certain provisions for each student and teacher at a targeted campus or grade level on a targeted campus.

(c) Sets forth certain requirements for the Legislative Budget Board (LBB).

(d) Requires the LBB and the commissioner to jointly conduct a performance evaluation of school district targeted technology programs.

Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION. (a) Authorizes the commissioner to enter into an agreement with a public broadcasting

station, or a consortium of public broadcasting stations, under which the station or consortium will provide online instructional content and educational materials.

(b) Authorizes the commissioner, from funds appropriated to TEA, under an agreement entered into under Subsection (a), to make instructional materials available through public broadcasting stations for purposes of instruction and professional development and for use in providing adult-based education.

(c) Requires an agreement entered into under Subsection (a), to the extent practicable, to provide access to instructional materials and online content to persons located in all parts of this state.

(d) Authorizes the commissioner to use certain funds for purposes of providing high-quality online instructional materials under this section.

SECTION 39. Amends Section 32.156, Education Code, as added by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 32.156. New heading: ON-LINE INSTRUCTIONAL MATERIALS. Makes conforming changes.

SECTION 40. Amends Section 32.161(b), Education Code, to make conforming changes.

SECTION 41. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.0232 , as follows:

Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) Requires TEA, to the extent practicable and appropriate, to provide for assessment instruments required under Section 39.023 to be designed so that those assessment instruments can be computer-adaptive.

(b) Requires TEA to require school districts to administer to students the computer-adaptive assessment instruments to the extent practicable and appropriate.

(c) Authorizes the commissioner to adopt rules to implement this section.

(d) Requires the commissioner by rule to delay the release of certain materials, as necessary to implement this section.

(e) Requires TEA to implement this section not later than May 1, 2007. Provides that this subsection expires September 1, 2007.

SECTION 42. Amends Section 41.124(c), Education Code, to make a conforming change.

SECTION 43. Amends Subchapter B, Chapter 44, Education Code, by adding Section 44.046, as follows:

Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS. Authorizes a public school, notwithstanding Section 44.031, to purchase instructional materials, as defined by Section 31.002, under a blanket purchase order executed by DIR under Section 31.026.

SECTION 44. Repealer: Sections 31.002(3) (defining textbook), 31.021 (State Textbook Fund), 31.022 (Textbook Review and Adoption), 31.023 (Textbook Lists), 31.024 (Adoption by State Board of Education), 31.025 (Limitation on Cost), 31.101 (Selection and Purchase of Textbooks by School Districts), 31.103 (Textbook Requisitions), and 31.1031 (Shortage of Requisitioned Textbooks), Education Code.

SECTION 45. Effective date: September 1, 2005, except as provided by this Act.