

- SUBJECT:** Selecting, purchasing, and distributing public school textbooks
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 6 ayes — Sadler, Dutton, Dunnam, Hardcastle, Hochberg, Olivo  
0 nays  
3 absent — Grusendorf, Oliveira, Smith
- WITNESSES:** For — P.D. Thomas, Textbook Coordinators' Association of Texas  
Against — None  
On — James Taylor
- BACKGROUND:** Education Code, ch. 31 sets forth guidelines for the state funding, adoption, and purchase of textbooks for the public schools. It also governs local operations with regard to the distribution and handling of textbooks and establishes the duties of publishers and manufacturers. The State Board of Education (SBOE) is responsible for setting a maximum price for school textbooks. Current law makes it a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) for a trustee, administrator, or teacher to receive a commission or rebate on any textbooks.
- DIGEST:** CSHB 623 would make various changes regarding textbook purchasing.
- Credit program.** The bill would require the commissioner of education to study a textbook credit program and deliver a report to the 79th Legislature meeting in 2005. Under a textbook credit program, a school district or charter school would receive a credit for each purchased textbook that cost less than the state's maximum price. The credit to the school district or charter school would be one-half of the difference between the state's maximum price and the actual price of the textbook, multiplied by the number of textbooks purchased. A school district or charter school would be permitted to use the credit for purchase of additional textbooks or electronic textbooks. The

remaining credit would be returned to the state textbook fund. This provision would expire on September 1, 2005

**Shortage.** The bill would give two options to school districts or charter schools that did not have a sufficient number of copies of a textbook and were unable to obtain more copies from the publisher. Schools either could purchase used textbooks and be reimbursed from the state textbook fund at a rate set by SBOE, or return currently used textbooks to the commissioner in exchange for sufficient copies of another textbook.

**Distribution and handling.** The bill would strike a requirement that school districts and charter schools number or otherwise identifiably mark each textbook.

**Duties of publishers and manufacturers.** Publishers and manufacturers would be required to provide school districts and charter schools with an accurate shipping date for back-ordered textbooks. The required textbook delivery guarantee would be changed to require a publisher or manufacturer to guarantee delivery at least ten business days prior to the first day of school.

**Requisition.** The bill would allow a school district or charter school to requisition textbooks for grades above the grade level in which a student was enrolled. This provision would not allow a school district or charter school to requisition a greater quantity of textbooks than allowed under existing law.

**Accepting textbook rebates.** A school trustee, administrator, or teacher would commit a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if that person accepted a gift, favor, or service that:

- ! was given to the person or to the school;
- ! might reasonably influence textbook selection, and
- ! could not be lawfully purchased with money from the state textbook fund.

This provision would take effect September 1, 2001. The rest of 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, 2001.

SUPPORTERS  
SAY:

**Credit program.** CSHB 623 would require the commissioner of education to study the potential effect of providing school districts and charter schools with an incentive to seek out less expensive textbooks. Current law does not provide an incentive for school districts and charter schools to seek out less expensive textbooks, which in turn provides no incentive for textbook publishers to produce less expensive textbooks. SBOE sets maximum allowable textbook prices, and most publishers produce conforming textbooks priced at or just below the maximum allowable price. School districts and charter schools would benefit from a credit because they would be able to purchase additional textbooks. The state textbook fund also would benefit from the credit, reducing textbook purchase costs.

**Shortage.** The shortage provisions would give school districts and charter schools the option to obtain enough used copies of a textbook or to exchange current textbooks for other titles. This would be ideal for schools that were facing a shortage and needed to decide quickly whether to use the same title or switch to another textbook. Either way, a school district or charter school would receive state assistance that supported its decision.

**Distribution and handling.** Textbook manufacturers and publishers could number or otherwise mark textbooks much more efficiently than school districts and charter schools. Under current law, school districts spend a great deal of time unpacking textbooks, numbering them, and then repacking the textbooks for delivery to individual campuses. Numbering is crucial to textbook management. SBOE could require by rule that textbook publishers or manufacturers were responsible for numbering or marking textbooks. This would save time and money for local school districts and would result in textbooks being ready for student use in a more timely manner.

**Duties of publishers and manufacturers.** Under current law, school districts and charter schools often have no idea when back-ordered textbooks will arrive, because publishers and manufacturers are not required to provide any notice. Sometimes the back-ordered item is ancillary to the textbook but necessary for classroom use of the textbook, such as a teacher's guide, set of overhead projection materials, or testing books. With knowledge of a back-

ordered item's delivery date, schools and teachers could plan the most appropriate and least educationally disruptive course of action.

**Accepting textbook rebates.** This amendment would provide an extension of current law, which prohibits a school trustee, administrator, or teacher from accepting payment for textbook sales. At textbook examination events, publishing companies may attempt to influence textbook decision-makers with expensive meals or other gifts, which are essentially the equivalent of a payment incentive to select a specific textbook. The bill would not prohibit trustees, administrators, or teachers from accepting items of minimal value, such as light snacks or soft drinks, at textbook events.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee substitute assigned "textbook" and "electronic textbook" the meanings given in Education Code, sec. 31.002.