

## **BILL ANALYSIS**

Senate Research Center  
81R35478 E

C.S.H.B. 4294  
By: Branch et al. (Shapiro)  
Education  
5/20/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are many educational opportunities available to Texas students via electronic means. Electronic textbooks, educational software, and other technological programs can provide information to students in an efficient and engaging manner. In order to compete with students from other states, Texas needs to embrace the use of these electronic devices.

C.S.H.B. 4294 provides more flexibility for school districts and open-enrollment charter schools to use electronic textbooks, instructional materials, and technological equipment. The bill provides funds to purchase the technology and establishes a process for approving and recommending effective electronic educational material.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 4 (Section 31.0231, Education Code) and SECTION 5 (Section 31.101, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 31, Education Code, as follows:

Sec. 31.004. CERTIFICATION OF PROVISION OF TEXTBOOKS, ELECTRONIC TEXTBOOKS, AND INSTRUCTIONAL MATERIALS. Requires each school district and open-enrollment charter school to annually certify to the State Board of Education (SBOE) and the commissioner of education (commissioner) that, for each subject in the required curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by SBOE for that subject and grade level.

SECTION 2. Amends Section 31.021, Education Code, by adding Subsection (f), as follows:

(f) Authorizes the state textbook fund to be used to purchase technological equipment necessary to support the use of electronic textbooks or instructional material included on the list adopted under Section 31.0231 or any textbook or material approved by SBOE.

SECTION 3. Amends Section 31.022, Education Code, by adding Subsection (f), to require SBOE to amend any request for reproduction issued for the purchase of textbooks to conform to the textbook funding levels provided by the General Appropriations Act for the year of implementation.

SECTION 4. Amends Subchapter B, Chapter 31, Education Code, by adding Section 31.0231, as follows:

Sec. 31.0231. ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIAL LIST. (a) Requires the commissioner to adopt a list of electronic textbooks and instructional material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade five.

(b) Authorizes a school district to select an electronic textbook or instructional material on the list adopted under Subsection (a) to be funded by the state textbook fund under Section 31.021.

(c) Provides that before the commissioner places an electronic textbook or instructional material on the list adopted under Subsection (a), the electronic textbook or instructional material:

(1) is required to be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology; and

(2) is required to satisfy criteria adopted for the purpose by commissioner rule.

(d) Requires that the criteria adopted under Subsection (c)(2):

(1) include evidence of alignment with current research in the subject for which the electronic textbook or instructional material is intended to be used;

(2) include coverage of the essential knowledge and skills identified under Section 28.002 (Required Curriculum) for the subject for which the electronic textbook or instructional material is intended to be used and identify each of the essential knowledge and skills for the subject and grade level or levels covered by the electronic textbook or instructional material, and the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the electronic textbook or instructional material; and

(3) include appropriate training for teachers.

(e) Requires the commissioner to update, as necessary, the list adopted under Subsection (a). Requires that before the commissioner places an electronic textbook or instructional material on the updated list, the requirements of Subsection (c) be met. Requires that before the commissioner removes an electronic textbook or instructional material from the updated list, the removal be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.

(f) Authorizes the provider of an electronic textbook or instructional material on the list adopted under Subsection (a), after notice to the commissioner explaining in detail the changes, to update the navigational features or management system related to the electronic textbook or instructional material.

(g) Authorizes the provider of an electronic textbook or instructional material on the list adopted under Subsection (a), after notice to the commissioner and a review by the commissioner, to update the content of the electronic textbook or instructional material if needed to accurately reflect current knowledge or information.

(h) Requires the commissioner to adopt rules as necessary to implement this section. Requires the rules to be consistent with Section 31.151 (Duties of Publishers and Manufacturers) regarding the duties of publishers and manufactures and the imposition of a reasonable administrative penalty, and require public notice of an opportunity for the submission of an electronic textbook or instructional material.

SECTION 5. Amends Section 31.101, Education Code, by amending Subsections (a) and (c) and adding Subsections (b-1), (c-1), and (e), as follows:

(a) Requires the board of trustees of each school district (board) and the governing body of each open-enrollment charter school, each year, during a period established by SBOE, to:

(1) for a subject in the foundation curriculum, notify SBOE of the textbooks selected by the board or governing body for the following school year from among the textbooks on the appropriate conforming or nonconforming list, including the list adopted under Section 31.0231; or

(2) for a subject in the enrichment curriculum, notify SBOE of each textbook selected by the board or governing body for the following school year from among the textbooks on the appropriate conforming or nonconforming list, including the list adopted under Section 31.0231.

(b-1) Requires the state, if a school district or open-enrollment charter school selects for a particular subject or grade level an electronic textbook or instructional material on the list adopted under Section 31.0231, to pay the district or school an amount equal to the cost of the electronic textbook or instructional material plus textbook credits under Section 31.1011 (Textbook Credits), equal to 50 percent of the difference between that cost and the limitation established under Section 31.025 (Limitation On Cost) for a textbook for that subject and grade level, multiplied by the number of electronic textbooks or instructional materials the district or school needs for that subject and grade level.

(c) Provides that a school district or open-enrollment charter school that selects a textbook that is not on the conforming or nonconforming list or that selects an electronic textbook or instructional material that is on the list adopted under Section 31.0231:

(1) is responsible for the portion of the cost of the textbook that is not paid by the state under Subsection (b) (relating to requiring the state to pay the district or school an amount equal to certain costs if a school district or open-enrollment selects textbooks not on the conforming or nonconforming list); and

(2) is authorized to use funds received from the state under Subsection (b) or (b-1), as applicable, for purchasing the textbook, electronic textbook, or instructional material, for which the funds were received or supplementing the allotment under Section 32.005 (Technology Allotment) to purchase technological equipment according to rules adopted by the commissioner.

(c-1) Requires a school district or open-enrollment charter school, notwithstanding any other provision of this chapter, to purchase a classroom set of textbooks adopted by SBOE under Section 31.023 (Textbook Lists) or 31.035 (Supplemental Textbooks) for each subject and grade level in the foundation and enrichment curriculum.

(e) Authorizes a school district or open-enrollment charter school that selects a subscription-based electronic textbook or instructional material on the conforming list under Section 31.023 or the list adopted under Section 31.0231 to cancel the subscription and subscribe to a new electronic textbook or instructional material on the conforming list under Section 31.023 or the list adopted under Section 31.0231 before the end of the state contract period under Section 31.026 (Contract; Price) if:

(1) the district or school has used the electronic textbook or instructional material for at least one school year; and

(2) the Texas Education Agency (TEA) approves the change based on a written request to TEA by the district or school that specifies the reasons for changing the electronic textbook or instructional material used by the district or school.

SECTION 6. Amends Section 31.1011(c), Education Code, to require that 50 percent of the total textbook credit of a school district or open-enrollment charter school be credited to the state textbook fund, and 50 percent of the credit be credited to the district or school to apply toward

the requisition of certain textbooks, including electronic textbooks or instructional materials on the list adopted under Section 31.0231, or technological equipment under Section 31.021(f).

SECTION 7. Amends the heading to Section 31.152, Education Code, to read as follows:

Sec. 31.152. ACCEPTING REBATE ON TEXTBOOKS, ELECTRONIC TEXTBOOKS, INSTRUCTIONAL MATERIALS, OR TECHNICAL EQUIPMENT.

SECTION 8. Amends Sections 31.152(a) and (b), Education Code, as follows:

(a) Provides that a school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any textbooks, electronic textbooks, instructional materials, or technological equipment used in the schools with which the person is associated as a trustee, administrator, or teacher.

(b) Provides that a school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service under certain circumstances, including that might reasonably tend to influence a trustee, administrator, or teacher in the selection of a textbook, electronic textbook, instructional material, or technological equipment.

SECTION 9. Effective date: upon passage or September 1, 2009.