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1
2 An act relating to instructional materials for K-12
3 public education; amending s. 1006.28, F.S.; revising
4 the duties of a district school board with regard to
5 instructional materials; creating s. 1006.283, F.S.;
6 authorizing a district school board or a consortium of
7 school districts to implement an instructional
8 materials program; requiring the district
9 superintendent to certify to the Department of
10 Education that instructional materials for core
11 courses align with applicable state standards;
12 requiring the district school board to adopt rules;
13 authorizing the district school board to assess and
14 collect fees from a publisher that participates in the
15 instructional materials review process; requiring the
16 fee amount to be posted on the school district's
17 website and reported to the department; providing a
18 limit on fees; providing for a stipend, reimbursement
19 for travel expenses, and per diem for reviewers;
20 requiring instructional materials that are approved by
21 the district instructional materials reviewers to be
22 aligned with applicable state standards; requiring
23 each district school superintendent to annually
24 certify that the instructional materials for core
25 courses used by the district align with applicable
26 state standards; providing pricing requirements for
27 instructional materials; amending s. 1006.31, F.S.;
28 revising the procedure for evaluating instructional
29 materials; amending s. 1006.37, F.S.; revising the

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30 time period in which the superintendent must
31 requisition instructional materials; providing that a
32 district school board or a consortium of school
33 districts which implements an instructional materials
34 program is not required to requisition instructional
35 materials from the publisher's depository; amending s.
36 1006.38, F.S.; providing for applicability; revising
37 duties of publishers and manufacturers; amending s.
38 1006.40, F.S.; revising the allocation for
39 instructional materials; providing for applicability;
40 amending s. 1001.10, F.S.; revising the duties of the
41 Commissioner of Education with regard to instructional
42 materials; amending s. 1011.62, F.S.; conforming
43 provisions to changes made by the act; providing an
44 effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

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48 Section 1. Paragraph (b) of subsection (1) of section
49 1006.28, Florida Statutes, is amended to read:

50 1006.28 Duties of district school board, district school
51 superintendent; and school principal regarding K-12
52 instructional materials.—

53 (1) DISTRICT SCHOOL BOARD.—The district school board has
54 the duty to provide adequate instructional materials for all
55 students in accordance with the requirements of this part. The
56 term "adequate instructional materials" means a sufficient
57 number of student or site licenses or sets of materials that are
58 available in bound, unbound, kit, or package form and may

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59 consist of hardbacked or softbacked textbooks, electronic
60 content, consumables, learning laboratories, manipulatives,
61 electronic media, and computer courseware or software that serve
62 as the basis for instruction for each student in the core
63 courses of mathematics, language arts, social studies, science,
64 reading, and literature. The district school board has the
65 following specific duties:

66 (b) *Instructional materials.*—Provide for proper
67 requisitioning, distribution, accounting, storage, care, and use
68 of all instructional materials and furnish such other
69 instructional materials as may be needed. The district school
70 board shall ensure that instructional materials used in the
71 district are consistent with the district goals and objectives
72 and the course descriptions established in curriculum frameworks
73 ~~adopted by~~ rule of the State Board of Education, as well as with
74 the state and district performance standards provided for in s.
75 1001.03(1).

76 Section 2. Section 1006.283, Florida Statutes, is created
77 to read:

78 1006.283 District school board instructional materials
79 review process.—

80 (1) A school board or consortium of school districts may
81 implement an instructional materials program that includes the
82 review, approval, adoption, and purchase of instructional
83 materials. Beginning in the 2013-2014 school year, the district
84 school superintendent shall certify to the department by March
85 31 of each year that all instructional materials for core
86 courses used by the district are aligned with applicable state
87 standards. Included in the certification shall be a list of the

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88 core instructional materials that will be used or purchased for
89 use by the school district.

90 (2) The school board shall adopt rules implementing the
91 district's instructional materials program which must include,
92 but need not be limited to:

93 (a) Its review and purchase process.

94 (b) Identification of a review cycle for instructional
95 materials.

96 (c) The duties and qualifications of the instructional
97 materials reviewers.

98 (d) The requirements for an affidavit made by a district
99 instructional materials reviewer which substantially includes
100 the requirements of s. 1006.30.

101 (e) Compliance with s. 1006.32, relating to prohibited
102 acts.

103 (f) A process that certifies the accuracy of instructional
104 materials.

105 (g) The incorporation of applicable requirements of s.
106 1006.31, which relates to the duties of instructional materials
107 reviewers.

108 (h) The incorporation of applicable requirements of s.
109 1006.38, relating to the duties, responsibilities, and
110 requirements of publishers of instructional materials.

111 (i) The process by which instructional materials will be
112 purchased, including advertising, bidding, and purchasing
113 requirements.

114 (3) (a) The school board may assess and collect fees from
115 publishers participating in the instructional materials approval
116 process. The amount assessed and collected must be posted on the

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117 school district's website and reported to the department. The
118 fees may not exceed the actual cost of the review process, and
119 the fees may not exceed \$3,500 per submission by a publisher.
120 Any fees collected for this process shall be allocated for the
121 support of the review process and maintained in a separate line
122 item for auditing purposes.

123 (b) The fees shall be used to cover the actual cost of
124 substitute teachers for each workday that a member of a school
125 district's instructional staff is absent from his or her
126 assigned duties for the purpose of rendering service as an
127 instructional materials reviewer. In addition, each reviewer may
128 be paid a stipend and is entitled to reimbursement for travel
129 expenses and per diem in accordance with s. 112.061 for actual
130 service in meetings.

131 (4) Instructional materials that have been reviewed by the
132 district instructional materials reviewers and approved must
133 have been determined to align with all applicable state
134 standards pursuant to s. 1003.41 and the requirements in s.
135 1006.31. The district school superintendent shall annually
136 certify to the department that all instructional materials for
137 core courses used by the district are aligned with all
138 applicable state standards.

139 (5) A publisher that offers instructional materials to a
140 district school board must provide such materials at a price
141 that, including all costs of electronic transmission, does not
142 exceed the lowest price at which the publisher offers such
143 instructional materials for approval or sale to any state or
144 school district in the United States.

145 (6) A publisher shall reduce automatically the price of the

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146 instructional materials to the district school board to the
147 extent that reductions in price are made elsewhere in the United
148 States.

149 Section 3. Section 1006.31, Florida Statutes, is amended to
150 read:

151 1006.31 Duties of the Department of Education and school
152 district ~~each state~~ instructional materials reviewer.—The duties
153 of the ~~each state~~ instructional materials reviewer are:

154 (1) PROCEDURES.—To adhere to procedures prescribed by the
155 department or the district for evaluating instructional
156 materials submitted by publishers and manufacturers in each
157 adoption. This section applies to both the state and district
158 approval processes.

159 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate
160 carefully all instructional materials submitted, in order to
161 ascertain which instructional materials, if any, submitted for
162 consideration implement the selection criteria developed by the
163 department and those curricular objectives included within
164 applicable performance standards provided for in s. 1001.03(1).

165 (a) When recommending instructional materials for use in
166 the schools, each reviewer shall include only instructional
167 materials that accurately portray the ethnic, socioeconomic,
168 cultural, and racial diversity of our society, including men and
169 women in professional, career, and executive roles, and the role
170 and contributions of the entrepreneur and labor in the total
171 development of this state and the United States.

172 (b) When recommending instructional materials for use in
173 the schools, each reviewer shall include only materials that
174 accurately portray, whenever appropriate, humankind's place in

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175 ecological systems, including the necessity for the protection
176 of our environment and conservation of our natural resources and
177 the effects on the human system of the use of tobacco, alcohol,
178 controlled substances, and other dangerous substances.

179 (c) When recommending instructional materials for use in
180 the schools, each reviewer shall require such materials as he or
181 she deems necessary and proper to encourage thrift, fire
182 prevention, and humane treatment of people and animals.

183 (d) When recommending instructional materials for use in
184 the schools, each reviewer shall require, when appropriate to
185 the comprehension of students, that materials for social
186 science, history, or civics classes contain the Declaration of
187 Independence and the Constitution of the United States. A
188 reviewer may not recommend any instructional materials for use
189 in the schools which contain any matter reflecting unfairly upon
190 persons because of their race, color, creed, national origin,
191 ancestry, gender, or occupation.

192 (e) Any instructional material recommended by each reviewer
193 for use in the schools shall be, to the satisfaction of each
194 reviewer, accurate, objective, and current and suited to the
195 needs and comprehension of students at their respective grade
196 levels. Reviewers shall consider for adoption materials
197 developed for academically talented students such as those
198 enrolled in advanced placement courses.

199 (3) REPORT OF REVIEWERS.—After a thorough study of all data
200 submitted on each instructional material, to submit an
201 electronic report to the department. The report shall be made
202 public and must include responses to each section of the report
203 format prescribed by the department.

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204 Section 4. Subsection (1) of section 1006.37, Florida
205 Statutes, is amended, and subsection (3) is added to that
206 section, to read:

207 1006.37 Requisition of instructional materials from
208 publisher's depository.—

209 (1) The district school superintendent shall requisition
210 adopted instructional materials from the depository of the
211 publisher with whom a contract has been made. However, the
212 superintendent shall requisition current instructional materials
213 to provide each student with a textbook or other materials as a
214 major tool of instruction in core courses of the subject areas
215 specified in s. 1006.40(2). These materials must be
216 requisitioned within the first 3 ~~2~~ years of the adoption cycle,
217 except for instructional materials related to growth of student
218 membership or instructional materials maintenance needs. The
219 superintendent may requisition instructional materials in the
220 core subject areas specified in s. 1006.40(2) that are related
221 to growth of student membership or instructional materials
222 maintenance needs during the 3rd, 4th, 5th, and 6th years of the
223 original contract period.

224 (3) A district school board or a consortium of school
225 districts which implements an instructional materials program
226 pursuant to s. 1006.283 is not required to requisition
227 instructional materials from the publisher's depository.

228 Section 5. Section 1006.38, Florida Statutes, is amended to
229 read:

230 1006.38 Duties, responsibilities, and requirements of
231 instructional materials publishers and manufacturers.—This
232 section applies to both the state and district approval

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233 processes. Publishers and manufacturers of instructional
234 materials, or their representatives, shall:

235 (1) Comply with all provisions of this part.

236 (2) Electronically deliver fully developed sample copies of
237 all instructional materials upon which bids are based to the
238 department pursuant to procedures adopted by the State Board of
239 Education.

240 (3) Submit, at a time designated in s. 1006.33, the
241 following information:

242 (a) Detailed specifications of the physical characteristics
243 of the instructional materials, including any software or
244 technological tools required for use by the district, school,
245 teachers, or students. The publisher or manufacturer shall
246 comply with these specifications if the instructional materials
247 are adopted and purchased in completed form.

248 (b) Evidence that the publisher or manufacturer has
249 provided materials that address the performance standards
250 provided for in s. 1001.03(1) and that can be accessed through
251 the district's local instructional improvement system and a
252 variety of electronic, digital, and mobile devices.

253 (c) Evidence that the instructional materials include
254 specific references to statewide standards in the teacher's
255 manual and incorporate such standards into chapter tests or the
256 assessments.

257 (4) Make available for purchase by any district school
258 board any diagnostic, criterion-referenced, or other tests that
259 they may develop.

260 (5) Furnish the instructional materials offered by them at
261 a price in the state which, including all costs of electronic

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262 transmission, may not exceed the lowest price at which they
263 offer such instructional materials for adoption or sale to any
264 state or school district in the United States.

265 (6) Reduce automatically the price of the instructional
266 materials to any district school board to the extent that
267 reductions are made elsewhere in the United States.

268 (7) Provide any instructional materials free of charge in
269 the state to the same extent as they are provided free of charge
270 to any state or school district in the United States.

271 (8) Guarantee that all copies of any instructional
272 materials sold in this state will be at least equal in quality
273 to the copies of such instructional materials that are sold
274 elsewhere in the United States and will be kept revised, free
275 from all errors, and up-to-date as may be required by the
276 department.

277 (9) Agree that any supplementary material developed at the
278 district or state level does not violate the author's or
279 publisher's copyright, provided such material is developed in
280 accordance with the doctrine of fair use.

281 (10) Not in any way, directly or indirectly, become
282 associated or connected with any combination in restraint of
283 trade in instructional materials, nor enter into any
284 understanding, agreement, or combination to control prices or
285 restrict competition in the sale of instructional materials for
286 use in the state.

287 (11) Maintain or contract with a depository in the state.

288 (12) For the core subject areas specified in s. 1006.40(2),
289 maintain in the depository for the first 3 ~~2~~ years of the
290 contract an inventory of instructional materials sufficient to

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291 receive and fill orders.

292 (13) For the core subject areas specified in s. 1006.40(2),
293 ensure the availability of an inventory sufficient to receive
294 and fill orders for instructional materials for growth,
295 including the opening of a new school, and replacement during
296 the 3rd and subsequent years of the original contract period.

297 (14) Accurately and fully disclose only the names of those
298 persons who actually authored the instructional materials. In
299 addition to the penalties provided in subsection (16), the
300 commissioner may remove from the list of state-adopted
301 instructional materials those instructional materials whose
302 publisher or manufacturer misleads the purchaser by falsely
303 representing genuine authorship.

304 (15) Grant, without prior written request, for any
305 copyright held by the publisher or its agencies automatic
306 permission to the department or its agencies for the
307 reproduction of instructional materials and supplementary
308 materials in Braille, large print, or other appropriate format
309 for use by visually impaired students or other students with
310 disabilities that would benefit from use of the materials.

311 (16) Upon the willful failure of the publisher or
312 manufacturer to comply with the requirements of this section, be
313 liable to the department in the amount of three times the total
314 sum which the publisher or manufacturer was paid in excess of
315 the price required under subsections (5) and (6) and in the
316 amount of three times the total value of the instructional
317 materials and services which the district school board is
318 entitled to receive free of charge under subsection (7).

319 Section 6. Subsection (2) and paragraph (a) of subsection

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320 (3) of section 1006.40, Florida Statutes, are amended to read:

321 1006.40 Use of instructional materials allocation;
322 instructional materials, library books, and reference books;
323 repair of books.—

324 (2) Each district school board must purchase current
325 instructional materials to provide each student with a major
326 tool of instruction in core courses of the subject areas of
327 mathematics, language arts, science, social studies, reading,
328 and literature for kindergarten through grade 12. Such purchase
329 must be made within the first 3 ~~2~~ years after the effective date
330 of the adoption cycle. For the 2012-2013 mathematics adoption, a
331 district using a comprehensive mathematics instructional
332 materials program adopted in the 2009-2010 adoption shall be
333 deemed in compliance with this subsection if it provides each
334 student with such additional state-adopted materials as may be
335 necessary to align the previously adopted comprehensive program
336 to common core standards and the other criteria of the 2012-2013
337 mathematics adoption.

338 (3) (a) By the 2015-2016 fiscal year, each district school
339 board shall use at least 50 percent of the annual allocation for
340 the purchase of digital or electronic instructional materials
341 that align with state standards included on the state-adopted
342 list, except as otherwise authorized in paragraphs (b) and (c).
343 This section does not apply to a district school board or a
344 consortium of school districts which implements an instructional
345 materials program pursuant to s. 1006.283, except that by the
346 2015-2016 fiscal year, each district school board shall use at
347 least 50 percent of the annual allocation for the purchase of
348 digital or electronic instructional materials that align with

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349 state standards.

350 Section 7. Paragraphs (o) and (p) of subsection (6) of
351 section 1001.10, Florida Statutes, are amended to read:

352 1001.10 Commissioner of Education; general powers and
353 duties.—

354 (6) Additionally, the commissioner has the following
355 general powers and duties:

356 (o) To develop criteria for use by department ~~state~~
357 instructional materials reviewers in evaluating materials
358 submitted for adoption consideration. The criteria shall, as
359 appropriate, be based on instructional expectations reflected in
360 course descriptions ~~curriculum frameworks~~ and student
361 performance standards. The criteria for each subject or course
362 shall be made available to publishers and manufacturers of
363 instructional materials pursuant to the requirements of chapter
364 1006.

365 (p) To prescribe procedures for evaluating instructional
366 materials submitted by publishers and manufacturers in each
367 adoption.

368 Section 8. Paragraph (b) of subsection (6) of section
369 1011.62, Florida Statutes, is amended to read:

370 1011.62 Funds for operation of schools.—If the annual
371 allocation from the Florida Education Finance Program to each
372 district for operation of schools is not determined in the
373 annual appropriations act or the substantive bill implementing
374 the annual appropriations act, it shall be determined as
375 follows:

376 (6) CATEGORICAL FUNDS.—

377 (b) If a district school board finds and declares in a

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378 resolution adopted at a regular meeting of the school board that
379 the funds received for any of the following categorical
380 appropriations are urgently needed to maintain school board
381 specified academic classroom instruction, the school board may
382 consider and approve an amendment to the school district
383 operating budget transferring the identified amount of the
384 categorical funds to the appropriate account for expenditure:

- 385 1. Funds for student transportation.
- 386 2. Funds for safe schools.
- 387 3. Funds for supplemental academic instruction if the
388 required additional hour of instruction beyond the normal school
389 day for each day of the entire school year has been provided for
390 the students in each low-performing elementary school in the
391 district pursuant to paragraph (1)(f).
- 392 4. Funds for research-based reading instruction if the
393 required additional hour of instruction beyond the normal school
394 day for each day of the entire school year has been provided for
395 the students in each low-performing elementary school in the
396 district pursuant to paragraph (9)(a).
- 397 5. Funds for instructional materials if all instructional
398 material purchases necessary to provide updated materials that
399 are aligned with applicable ~~to Next Generation Sunshine~~ state
400 standards and course descriptions ~~benchmarks~~ and that meet
401 statutory requirements of content and learning have been
402 completed for that fiscal year, but no sooner than March 1.
403 Funds available after March 1 may be used to purchase hardware
404 for student instruction.

405 Section 9. This act shall take effect July 1, 2013.