

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: CS/SB 1644

INTRODUCER: Education Committee; Senator Lee and others

SUBJECT: Instructional Materials

DATE: February 13, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Androff	Graf	ED	Fav/CS
2.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1644 modifies the district school board and state-level instructional materials review and adoption processes. Specifically, the bill:

- Requires district school board rules regarding the instructional materials review process to establish a process by which parents and county residents may recommend instructional materials for consideration by district instructional materials reviewers.
- Requires members of the public to be provided access to, and be given an opportunity to submit comments on, instructional materials recommended for adoption by state instructional materials reviewers.
- Provides an exemption from the public review procedures at the district-level for instructional materials that are found by the Commissioner of Education (commissioner) to meet specified requirements, but permits a district school board member to initiate the public review procedures before instructional materials are adopted by the commissioner, if the district school board member has evidence that the instructional materials do not meet the required criteria.

The bill takes effect July 1, 2018.

**II. Present Situation:**

Florida law establishes state and local school district requirements for the adoption and purchase of instructional materials for public schools and provides opportunities for public review and input at the state and local level.

## **Instructional Materials**

“Instructional materials” means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course.<sup>1</sup> These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.<sup>2</sup>

## **District School Board Responsibility**

Each school district must select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.<sup>3</sup> Additionally, each district school board is responsible for the content of all instructional materials and any other materials used in the classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program, or otherwise purchased or made available.<sup>4</sup>

District school boards may purchase instructional materials from a list of state-reviewed and adopted instructional materials or, alternatively, may establish their own review and adoption program.<sup>5</sup>

## **School District Instructional Review and Adoption Process**

A district school board, or consortium of school districts, may implement its own instructional materials program.<sup>6</sup> A school district or consortium of school districts that implements its own program is not required to purchase instructional materials from the state-adopted list,<sup>7</sup> requisition instructional materials from the publisher’s depository,<sup>8</sup> or follow the same review cycle used for state instructional materials adoption.<sup>9</sup>

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<sup>1</sup> Sections 1006.28(1) and 1006.29(2), F.S.

<sup>2</sup> Sections 1006.28(1) and 1006.29(2), F.S.

<sup>3</sup> Section 1006.28(2), F.S. Adequate instructional materials means a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.” Section 1006.28(1)(a)1., F.S.

<sup>4</sup> Section 1006.28(2)(a)1., F.S.

<sup>5</sup> See ss. 1006.283 and 1006.40, F.S.

<sup>6</sup> See s. 1006.283, F.S.

<sup>7</sup> Section 1006.40(7), F.S.

<sup>8</sup> Section 1006.37(3), F.S.

<sup>9</sup> See s. 1006.283(2)(b), F.S. However, the district school superintendent must certify to the Department of Education by March 31 of each year that all instructional materials for core courses used by the district are aligned with applicable state standards. A list of the core instructional materials that will be used or purchased for use by the school district must be included in the certification. Section 1006.283(1), F.S.

If a district school board chooses to implement its own instructional materials program, the school board must adopt rules implementing the program, which must include the district school board's processes, criteria, and requirements to:<sup>10</sup>

- Select instructional materials reviewers, one or more of who must be a parent with a child in a public school;
- Review and select instructional materials, including a thorough review of curriculum content;
- Provide for reviewer recommendations;
- Adopt instructional materials by the district school board; and
- Purchase instructional materials.

The district school board rules must also:<sup>11</sup>

- Identify, by subject area, a review cycle for instructional materials;
- Specify the qualifications for, selection process for, and the duties of instructional materials reviewers, including compliance with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;
- Require that all instructional materials recommended by a reviewer be accompanied by the reviewer's statement that the materials align with the applicable state standards;
- Establish a process for certifying the accuracy of instructional materials;
- Require reviewer and publisher compliance with the law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials;<sup>12</sup> and
- Incorporate the requirements of state law regarding publisher duties, responsibilities, and requirements.<sup>13</sup>

### **State Instructional Materials Review Process**

Florida district school boards are also authorized to purchase instructional materials from a list of state-reviewed and adopted instructional materials.<sup>14</sup> Beginning on or before May 15 of the adoption year, DOE advertises a request for sealed bids or proposals from publishers of instructional materials and the advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.<sup>15</sup> After all bids have been considered, the Commissioner of Education (commissioner) selects and adopts, from the list reported by the state instructional materials reviewers as "suitable, usable, and desirable," instructional materials for each grade and subject as advertised.<sup>16</sup> The commissioner reserves the right to reject any and all

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<sup>10</sup> Section 1006.283(2)(a), F.S.

<sup>11</sup> Section 1006.283(2)(b), F.S.

<sup>12</sup> Like state instructional materials reviewers, district reviewers must sign an affidavit required under s. 1006.30, F.S., stating, in part, that they will faithfully discharge their duties and not accept payment or benefit from anyone for their recommendations. Section 1006.283(2)(b)3., F.S.

<sup>13</sup> Section. 1006.38, F.S.

<sup>14</sup> Section 1006.28(2)(a)1., F.S.

<sup>15</sup> Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

<sup>16</sup> Section 1006.34(2)(a), F.S.

bids.<sup>17</sup> State-adopted instructional materials are available for purchase for a 5-year period following adoption and must be requisitioned from the depository of the publisher.<sup>18</sup>

### Commissioner of Education Duties

The commissioner must annually determine the areas in which instructional materials will be submitted for adoption and the number of titles in each area.<sup>19</sup> The commissioner adopts instructional materials according to a 5-year rotating schedule.<sup>20</sup> The commissioner may approve a shorter schedule if the content area requires more frequent revision.<sup>21</sup> DOE annually publishes an official adoption schedule for each of the succeeding two years and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct DOE to add one or more subject areas to the official adoption schedule.<sup>22</sup>

The following chart shows the adoption schedule for instructional materials through FY 2019-20:<sup>23</sup>

Instructional Materials Adoption Schedule	
Year	Subject
2016-17	Social Studies (K-12)
2017-18	Science (K-12)
2018-19	Mathematics (K-12)
2019-20	English Language Arts (K-12)

### Public Review of Instructional Materials

Prior to the purchase of any instructional materials, whether from the state-adopted list or through a district-established instructional materials review process, a district school board must:<sup>24</sup>

- Establish a process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the required school board hearing and public meeting. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- Conduct an open, noticed school board hearing to receive public comment on the recommended instructional materials;
- Conduct an open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased. This public meeting must be held on a different date than the school board hearing;

<sup>17</sup> Section 1006.34(2)(a), F.S.

<sup>18</sup> Sections 1006.36(1) and 1006.37(1), F.S.; *see also* s. 1006.28(2)(b), F.S.

<sup>19</sup> Section 1006.29(1)(a), F.S.

<sup>20</sup> Section 1006.36(1), F.S.

<sup>21</sup> Section 1006.36(1), F.S.

<sup>22</sup> Section 1006.36(2), F.S.

<sup>23</sup> Florida Department of Education, *Florida Instructional Materials Adoption Schedule for Adoption Years 2015-16 through 2019-20* (Feb. 3, 2015), available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf> (last visited Feb. 5, 2018).

<sup>24</sup> Sections 1006.40(4)(b) and 1006.283(2)(b)8., 9., and 11., F.S.

- Provide notice for the school board hearing and the public meeting that specifically states the instructional materials being reviewed and how the instructional materials can be accessed for public review; and
- Establish a process for public comment on, and review of, the recommended instructional materials.

The school board hearing must allow the parent of a public school student or a resident of the county to proffer evidence that an instructional material recommended for purchase does not align to the Next Generation Sunshine State Standards (NGSSS), does not meet state adoption criteria, or is not suitable to student needs or appropriate for students in the course or age group for which the instructional material would be used.<sup>25</sup>

In addition, the school board must establish a process by which the district notifies parents of their ability to access their children's instructional materials.<sup>26</sup> The notification must be displayed prominently on the school district's website and provided annually in written format to all parents of enrolled students.<sup>27</sup> Notices for public meetings and hearings must specifically identify the instructional materials up for review and adoption and the manner in which the materials can be accessed by the public.<sup>28</sup>

### III. Effect of Proposed Changes:

CS/SB 1644 modifies the district school board and state-level instructional materials review and adoption processes. Specifically, the bill:

- Requires district school board rules regarding the instructional materials review process to establish a process by which parents and county residents may recommend instructional materials for consideration by district instructional materials reviewers.
- Requires members of the public to be provided access to, and be given an opportunity to submit comments on, instructional materials recommended for adoption by state instructional materials reviewers.
- Provides an exemption from the public review procedures at the district-level for instructional materials that are found by the Commissioner of Education (commissioner) to meet specified requirements, but permits a district school board member to initiate the public review procedures before instructional materials are adopted by the commissioner, if the district school board member has evidence that the instructional materials do not meet the required criteria.

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<sup>25</sup> Section 1006.283(2)(b)8., 9., and 11., F.S.

<sup>26</sup> Section 1006.283(2)(b)11., F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Sections 1006.283(2)(b)8. and 1006.40(4)(b), F.S. Reasonable safeguards must be established against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment. Section 1006.283(2)(b)8.a., F.S.

### **District School Board Responsibility**

The bill requires district school board rules regarding the instructional materials review process to establish a process by which parents and county residents<sup>29</sup> may recommend instructional materials for consideration by district instructional materials reviewers. Additionally, the bill requires the district school board to notify the publisher of any instructional material that is recommended for consideration and provide the publisher with the Florida Instructional Materials Adoption Schedule for the current adoption cycle.

Accordingly, the bill may increase parent and county resident input in the recommendation of instructional materials for review and adoption at the district level.

### **Public Review of Instructional Materials**

The bill requires that members of the public be provided access to, and be given an opportunity to submit comments on, instructional materials recommended for adoption by state instructional materials reviewers. Any submitted comment related to a specific recommended instructional material must be provided to the commissioner as part of his or her consideration of the instructional materials. Additionally, the bill permits members of the public to recommend any instructional material for consideration by state instructional materials reviewers.

### **Commissioner of Education Duties**

The bill provides an exemption from the public review procedures at the district-level for instructional materials that are:

- Found by the commissioner to, at a minimum, meet the Next Generation Sunshine State Standards,
- Found to comply with the adoption criteria and standards established in law and in the bill, and
- Not prohibited by law.<sup>30</sup>

The bill specifies that a district school board member may initiate the public review procedures before the instructional materials are adopted by the commissioner, if the district school board member has evidence that the instructional materials do not meet this required criteria.

### **Department of Education Responsibility**

The bill also requires the Florida Department of Education to:

- Post any virtual presentation provided by a bidding instructional material publisher or manufacturer on the department's website for public access until the adoption period closes.
- Notify the publisher of any instructional material that is recommended for consideration and provide the publisher with the Florida Instructional Materials Adoption Schedule for the current adoption cycle.

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<sup>29</sup> The term "resident" means a person who has maintained his or her residence in this state for the preceding year, has purchased a home that is occupied by him or her as his or her residence, or has established a domicile in this state pursuant to Florida law. Section 1006.28(1)(b), F.S.

<sup>30</sup> The bill references section 847.012, F.S., which generally prohibits the sale or distribution of harmful materials to minors.

Accordingly, the bill may increase public input in the recommendation of instructional materials for review and adoption at the state level.

The bill takes effect July 1, 2018.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1006.283, 1006.31, 1006.34, and 1006.40.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education on February 12, 2018:**

The committee substitute retains the substance of the bill and modifies the provision in the bill that exempts instructional materials from the public review process at the district-level for instructional materials if such materials, at a minimum, meet state standards and comply with other specified criteria to:

- Clarify that such materials must be found by the commissioner to meet at least the state standards and
- Remove the requirement that such materials are not prohibited under the Florida Student and School Personnel Religious Liberties Act.

- B. **Amendments:**

None.