

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 146aa

52nd Legislature, 1st Session, 2015

Tracking Number: .198701.1

Short Title: Instructional Material Definitions & Changes

Sponsor(s): Representative Sheryl Williams Stapleton and Others

Analyst: Ian Kleats

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AS AMENDED

The Senate Education Committee amendment replaces the term “subject experts” with “primary sources” in describing the source of original source material included by HB 146 in the definition of instructional material.

The House Education Committee amendment clarifies that instructional materials include electronic media content but not electronic devices and hardware.

Original Bill Summary:

HB 146 amends sections of the *Instructional Material Law* to:

- change “forty day” and “fortieth day” to “October reporting date” in multiple instances (see “**Technical Issues**,” below);
- change the term “pupil” to “student”;
- modify the definition of “instructional material” to include:
 - original source material from subject experts; and
 - resources that support digital learning formats and educational programs, whether or not they are on the multiple list;
- strike the modifier “state-chartered” before “charter school” in the definition of “school district,” which allows locally chartered charter schools to be treated as school districts;
- remove the restrictions on the percentage of each school district’s, charter school’s, and state institution’s allocation that may be used for material not on the multiple list and for material that may not be included in the amended definition of “instructional material”; and
- remove the requirement that the Public Education Department (PED) verify, prior to the final distribution of funds, that each school district or charter school has a policy that:
 - requires that every student has a textbook for each class conforming to curriculum requirements; and
 - allows students to take those textbooks home.

If enacted, HB 146 would become effective on June 19, 2015, 90 days after the end of the legislative session.

Fiscal Impact:

HB 146 does not contain an appropriation.

Substantive Issues:

During the 2013 interim, the Legislative Education Study Committee (LESC) received a staff report on selected components of the instructional material process that had been of interest to the LESC. Among issues, the staff report noted:

- although current law defines entitlements and allocations for state-chartered charter schools and not locally chartered charter schools, in practice, PED has been making direct distributions to locally chartered charter schools rather than flowing the funds through its chartering authority;
- since 1999, the *Charter Schools Act* has required PED to waive for charter schools a number of provisions of the *Public School Code*, among them the purchase of instructional material, also detailing the following:
 - the Manual of Procedures (incorporated into PED rule) specifies that charter schools have 100 percent discretionary authority to purchase on or off the multiple list, and they have no limitations regarding whether the instructional material they purchase is core/basal or supplementary;
 - an Instructional Material Bureau contractor confirmed that any instructional material that charter schools purchase must still meet the statutory definition of the term; and
 - according to information from a small sample of charter school administrators, instructional material funds have been spent on online and internet-based instructional materials, including licenses to use certain web-based curriculum.

If enacted, HB 146 might address the issues identified above by:

- amending statute to conform to current practice in the distribution of funds to locally chartered charter schools by including those schools in the definition of “school district”; and
- granting state institutions and school districts the same discretionary authority with respect to instructional material purchases that charter schools currently possess.

Finally, the provisions of HB 146 raise a question with respect to the instructional material adoption process; namely the Legislature might reconsider the role, purpose, and need for the adoption process if school districts are no longer required to purchase any material from the multiple list.

Background:

- Originally called the “Free Textbook Fund,” the Instructional Material Fund was first created 1967 in the *School Textbook Law*. The fund was to be used “for the purpose of paying for the cost of purchasing instructional material pursuant to the *School Textbook Law*, which was amended in 1975 to become the *Instructional Material Law*, and the Free Textbook Fund was renamed the Instructional Material Fund.

- Administered by the Instructional Material Bureau at PED, the *Instructional Material Law* entitles any qualified student enrolled in an early childhood education program or in grades K through 12 in a public school, an accredited private school or a state supported school to the free use of instructional material.
- The *Instructional Material Law* provides for the distribution of funds for the purchase of instructional material on a per-pupil basis.
- Among its provisions, the law:
 - requires, on or before April 1 of each year, for PED to allocate to each school district, state institution, or private school not less than 90 percent of its estimated entitlement for the school year. On or before January 15 of each year, PED is required to recompute each entitlement using the membership of the first reporting date (first Wednesday in October) and allocate the balance of the annual appropriation, adjusting for any over- or under-estimation made in the first allocation;
 - allows a school district and state institution to expend at least 50 percent of their allocation to purchase instructional material from the state-adopted multiple list. The remaining 50 percent of the allocation may be used to purchase instructional material not included on the state-adopted multiple list and up to 25 percent of this portion of the allocation may be used to purchase “other classroom materials,” which are defined as materials other than textbooks that are used to support direct instruction to students;
 - requires accredited private schools to receive the same amount of per-pupil funding as public schools. However, private schools are allowed to expend up to 50 percent of their instructional material allocation for items that are not on the multiple list provided that (1) no funds are expended for religious, sectarian, or nonsecular materials; and (2) all instructional material purchases are made through an in-state depository. Payments to an in-state depository for private schools are required to be paid by PED;
 - allows any funds remaining at the end of a fiscal year to be retained by a school district, and state institution for expenditure in subsequent years. Private schools are not allowed to retain end of the fiscal year balances; however, any balance remains available for reimbursement by PED for the purchase of instructional material by the private school in subsequent years; and
 - requires PED to establish an instructional material review process in rule. Part of this process, as established in PED rule, is a summer review institute that includes Level 2 and Level 3-A teachers as reviewers of record, in partnership with Level 1 teachers, students completing teacher preparation programs, parents, and community leaders as observers.

PED rule delineates certain other aspects of the instructional material process. Regarding the adoption of instructional material, rule requires PED to ensure that:

- there be one annual adoption;
- material be adopted for a six-year period; and

- the subject area at each annual adoption consist of those subject areas whose adoption period expires at the end of the year during which the adoption is conducted.

Committee Referrals:

HGEIC/HEC/SEC/SPAC

Related Bills:

SB 225 *Instructional Material Definitions & Changes* (Identical)