By: Christian

H.B. No. 560

A BILL TO BE ENTITLED

1   AN ACT

2 relating to electronic textbooks, state-developed open-source

3 textbooks, and other instructional materials for public schools.

4   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5   SECTION 1. Section 31.004, Education Code, is amended to

6 read as follows:

7   Sec. 31.004. CERTIFICATION OF PROVISION OF TEXTBOOKS,

8 ELECTRONIC TEXTBOOKS, AND INSTRUCTIONAL MATERIALS. Each school

9 district and open-enrollment charter school shall annually certify

10 to the State Board of Education [and the commissioner] that, for

11 each subject in the required curriculum and each grade level, the

12 district provides each student with textbooks, electronic

13 textbooks, or instructional materials that cover all elements of

14 the essential knowledge and skills adopted by the State Board of

15 Education for that subject and grade level.

16   SECTION 2. Sections 31.0231(a), (c), (e), (f), (g), and

17 (h), Education Code, are amended to read as follows:

18   (a)   The State Board of Education [commissioner] shall adopt

19 a list of:

20   (1)   electronic textbooks; and

21   (2)   instructional material that conveys information

22 to the student or otherwise contributes to the learning process,

23 including tools, models, and investigative materials designed for

24 use as part of the foundation curriculum for science in

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1 kindergarten through grade five.

2 (c) [Before the commissioner places an electronic textbook

3 or instructional material on the list adopted under Subsection (a),

4 the State Board of Education must be given an opportunity to comment

5 on the electronic textbook or instructional material.] An

6 electronic textbook or instructional material placed on the list

7 adopted under Subsection (a):

8 (1) must be reviewed and recommended to the State

9 Board of Education [commissioner] by a panel of recognized experts

10 in the subject area of the electronic textbook or instructional

11 material and experts in education technology;

12 (2) must satisfy criteria adopted for the purpose by

13 board [commissioner] rule; and

14 (3) must meet the National Instructional Materials

15 Accessibility Standard, to the extent practicable as determined by

16 the board [commissioner].

17 (e) The State Board of Education [commissioner] shall

18 update, as necessary, the list adopted under Subsection

19 (a). Before the board [commissioner] places an electronic

20 textbook or instructional material on the updated list, the

21 requirements of Subsection (c) must be met. Before the board

22 [commissioner] removes an electronic textbook or instructional

23 material from the updated list, the removal must be recommended by a

24 panel of recognized experts in the subject area of the electronic

25 textbook or instructional material and experts in education

26 technology.

27 (f) After notice to the State Board of Education

1 [commissioner] explaining in detail the changes, the provider of an

2 electronic textbook or instructional material on the list adopted

3 under Subsection (a) may update the navigational features or

4 management system related to the electronic textbook or

5 instructional material.

6 (g) After notice to the State Board of Education

7 [commissioner] and a review by the board [commissioner], the

8 provider of an electronic textbook or instructional material on the

9 list adopted under Subsection (a) may update the content of the

10 electronic textbook or instructional material if needed to

11 accurately reflect current knowledge or information.

12 (h) The State Board of Education [commissioner] shall adopt

13 rules as necessary to administer [implement] this section. The

14 rules must:

15 (1) be consistent with Section 31.151 regarding the

16 duties of publishers and manufacturers, as appropriate, and the

17 imposition of a reasonable administrative penalty; and

18 (2) require public notice of an opportunity for the

19 submission of an electronic textbook or instructional material.

20 SECTION 3. Sections 31.071(a), (b), (d), and (e), Education

21 Code, are amended to read as follows:

22 (a) The State Board of Education [commissioner] may

23 purchase state-developed open-source textbooks in accordance with

24 this subchapter.

25 (b) The State Board of Education [commissioner]:

26 (1) shall purchase any state-developed open-source

27 textbooks through a competitive process; and

1   (2) may purchase more than one state-developed
2 open-source textbook for a subject or grade level.

3   (d) The State Board of Education [commissioner] may issue a
4 request for proposals for a state-developed open-source textbook:

5   (1) in accordance with the textbook review and
6 adoption cycle under Section 31.022; or

7   (2) at any other time the board [commissioner]
8 determines that a need exists for additional textbook options.

9   (e) The costs of administering this subchapter and
10 purchasing state-developed open-source textbooks shall be paid
11 from the state textbook fund, as determined by the State Board of
12 Education [commissioner].

13   SECTION 4. Section 31.072, Education Code, is amended to
14 read as follows:

15   Sec. 31.072. CONTENT REQUIREMENTS. (a) A state-developed
16 open-source textbook must:

17   (1) be evaluated by teachers or other experts, as
18 determined by the State Board of Education [commissioner], before
19 purchase; and

20   (2) meet the requirements for inclusion on a
21 conforming or nonconforming textbook list under Section 31.023.

22   (b) Following a curriculum revision by the State Board of
23 Education, the board [commissioner] shall require the revision of a
24 state-developed open-source textbook relating to that
25 curriculum. The board [commissioner] may, at any time, require an
26 additional revision of a state-developed open-source textbook or
27 contract for ongoing revisions of a textbook for a period not to

1 exceed the period under Section 31.022 for which a textbook for that
2 subject and grade level may be adopted. The board [commissioner]
3 shall use a competitive process to request proposals to revise a
4 state-developed open-source textbook under this subsection.

5   (c) The State Board of Education [commissioner] shall
6 provide for special and bilingual state-developed open-source
7 textbooks in the same manner provided under Sections 31.028 and
8 31.029.

9   SECTION 5. Sections 31.073(a) and (b), Education Code, are
10 amended to read as follows:

11   (a) For purposes of this section, the State Board of
12 Education [commissioner] shall determine the cost to a school
13 district or open-enrollment charter school for a state-developed
14 open-source textbook in an amount sufficient to cover state
15 expenses associated with the textbook, including expenses incurred
16 by the state in soliciting, evaluating, revising, and purchasing
17 the textbook.

18   (b) If a school district or open-enrollment charter school
19 selects a state-developed open-source textbook instead of another
20 textbook adopted under Subchapter B, the difference between the
21 cost determined by the State Board of Education [commissioner]
22 under Subsection (a) and the maximum price for a textbook in the
23 same subject area, as determined by the board [State Board of
24 Education] under Section 31.025, shall be allocated as follows:

25   (1) 50 percent of the amount shall be credited to the
26 state textbook fund under Section 31.021 to be used for purposes of
27 this subchapter; and

1   (2) 50 percent of the amount shall be credited to the

2 school district or open-enrollment charter school for use as

3 provided by Section 31.1011(c).

4   SECTION 6. Section 31.074, Education Code, is amended to

5 read as follows:

6   Sec. 31.074. DISTRIBUTION. (a) The State Board of Education

7 [commissioner] shall provide for the distribution of

8 state-developed open-source textbooks in a manner consistent with

9 distribution of textbooks adopted under Subchapter B.

10   (b) The State Board of Education [commissioner] may use a

11 competitive process to contract for printing or other reproduction

12 of a state-developed open-source textbook on behalf of a school

13 district or open-enrollment charter school. The board

14 [commissioner] may not require a school district or open-enrollment

15 charter school to contract with a state-approved provider for the

16 printing or reproduction of a state-developed open-source

17 textbook.

18   SECTION 7. Sections 31.075(b) and (c), Education Code, are

19 amended to read as follows:

20   (b) The State Board of Education [commissioner] shall

21 provide a license to each public school in the state, including a

22 school district, an open-enrollment charter school, and a state or

23 local agency educating students in any grade from prekindergarten

24 through high school, to use and reproduce a state-developed

25 open-source textbook.

26   (c) The State Board of Education [commissioner] may provide

27 a license to use a state-developed open-source textbook to an

1 entity not listed in Subsection (b). In determining the cost of a

2 license under this subsection, the <u>board</u> [~~commissioner~~] shall seek,

3 to the extent feasible, to recover the costs of developing,

4 revising, and distributing state-developed open-source textbooks.

5   SECTION 8. Sections 31.076 and 31.077, Education Code, are

6 amended to read as follows:

7   Sec. 31.076. RULES; FINALITY OF DECISIONS. (a) The <u>State</u>

8 <u>Board of Education</u> [~~commissioner~~] may adopt rules necessary to

9 <u>administer</u> [~~implement~~] this subchapter.

10   (b) A decision by the <u>State Board of Education</u>

11 [~~commissioner~~] regarding the purchase, revision, cost, or

12 distribution of a state-developed open-source textbook is final and

13 may not be appealed.

14   Sec. 31.077. ADOPTION SCHEDULE. The <u>State Board of</u>

15 <u>Education</u> [~~commissioner~~] shall develop a schedule for the adoption

16 of state-developed open-source textbooks under this subchapter. In

17 developing the adoption schedule under this section, the <u>board</u>

18 [~~commissioner~~] shall consider:

19   (1) the availability of funds;

20   (2) the existing textbook adoption cycles under

21 Subchapter B; and

22   (3) the availability of textbooks for development or

23 purchase by the state.

24   SECTION 9. Section 31.101(c), Education Code, is amended to

25 read as follows:

26   (c) A school district or open-enrollment charter school

27 that selects a textbook that is not on the conforming or

1 nonconforming list or that selects an electronic textbook or

2 instructional material that is on the list adopted under Section

3 31.0231:

4   (1) is responsible for the portion of the cost of the

5 textbook that is not paid by the state under Subsection (b); and

6   (2) may use funds received from the state under

7 Subsection (b) or (b-1), as applicable, for purchasing the

8 textbook, electronic textbook, or instructional material for which

9 the funds were received or supplementing the allotment under

10 Section 32.005 to purchase technological equipment according to

11 rules adopted by the State Board of Education [commissioner].

12   SECTION 10. Section 31.103(e), Education Code, is amended

13 to read as follows:

14   (e) The State Board of Education [commissioner] may

15 establish a list of equipment or devices that a school district or

16 open-enrollment charter school may purchase using textbook credits

17 or textbook credits in combination with other available funds to

18 provide electronic access to open-source textbooks under

19 Subsection (d)(1).

20   SECTION 11. (a) All powers and duties of the commissioner

21 of education under Section 31.0231, Education Code, and under

22 Subchapter B-1, Chapter 31, Education Code, and all contracts and

23 other obligations of and licenses provided by the commissioner of

24 education under Subchapter B-1, Chapter 31, Education Code, are

25 transferred to the State Board of Education on November 1, 2011.

26   (b) A list adopted by the commissioner of education under

27 Section 31.0231(a), Education Code, that is in effect on the

1 effective date of this Act remains valid until updated by the State

2 Board of Education.

3   (c) The State Board of Education shall continue any ongoing

4 process for a request for proposal for a state-developed

5 open-source textbook that was issued by the commissioner of

6 education before the effective date of this Act.

7   (d) An adoption schedule developed by the commissioner of

8 education under Section 31.077, Education Code, that is in effect

9 on the effective date of this Act remains valid until revised by the

10 State Board of Education.

11   (e) A rule adopted by the commissioner of education in

12 connection with or relating to electronic textbooks or

13 instructional materials under Section 31.0231, Education Code, or

14 state-developed open-source textbooks under Subchapter B-1,

15 Chapter 31, Education Code, continues in effect until the rule is

16 amended or repealed by the State Board of Education.

17   SECTION 12. This Act takes effect September 1, 2011.