

By: Coleman

H.B. No. 2302

A BILL TO BE ENTITLED

1 AN ACT
2 relating to transferring to the Texas Education Agency and the
3 commissioner of education the statutorily assigned
4 responsibilities of the State Board of Education concerning
5 textbooks.

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

7 SECTION 1. Sections 7.108(a) and (c), Education Code, are
8 amended to read as follows:

9 (a) A person interested in selling bonds of any type [~~or a~~
10 ~~person engaged in manufacturing, shipping, selling, or advertising~~
11 ~~textbooks or otherwise connected with the textbook business]~~
12 commits an offense if the person makes or authorizes a political
13 contribution to or takes part in, directly or indirectly, the
14 campaign of any person seeking election to or serving on the board.

15 (c) In this section, "political[+
16 ~~[(1) "Political]~~ contribution" has the meaning
17 assigned by Section 251.001, Election Code.

18 ~~[(2) "Textbook" has the meaning assigned by Section~~
19 ~~31.002.]~~

20 SECTION 2. Section 7.112, Education Code, is amended by
21 adding Subsection (d) to read as follows:

22 (d) This section expires January 31, 2014.

23 SECTION 3. Section 31.003, Education Code, is amended to
24 read as follows:

1 Sec. 31.003. RULES. The commissioner [~~State Board of~~
2 ~~Education~~] may adopt rules, consistent with this chapter, for the
3 adoption, requisition, distribution, care, use, and disposal of
4 textbooks.

5 SECTION 4. 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 5. Sections 31.021(b) and (f), Education Code, are
17 amended to read as follows:

18 (b) The State Board of Education shall annually set aside
19 out of the available school fund of the state an amount sufficient
20 for the agency [~~board~~], school districts, and open-enrollment
21 charter schools to purchase and distribute the necessary textbooks
22 for the use of the students of this state for the following school
23 year. The board shall determine the amount of the available school
24 fund to set aside for the state textbook fund based on:

25 (1) a report by the commissioner issued on July 1 or,
26 if that date is a Saturday or Sunday, on the following Monday,
27 stating the amount of unobligated money in the fund;

1 (2) the commissioner's estimate, based on textbooks
2 selected under Section 31.101 and on attendance reports submitted
3 under Section 31.103 by school districts and open-enrollment
4 charter schools, of the amount of funds, in addition to funds
5 reported under Subdivision (1), that will be necessary for purchase
6 and distribution of textbooks for the following school year; and

7 (3) any amount the board determines should be set
8 aside for emergency purposes caused by unexpected increases in
9 attendance.

10 (f) The state textbook fund may be used to purchase
11 technological equipment necessary to support the use of electronic
12 textbooks or instructional material included on the list adopted
13 under Section 31.0231 or any textbook or material approved by the
14 agency [~~State Board of Education~~].

15 SECTION 6. Section 31.022, Education Code, is amended to
16 read as follows:

17 Sec. 31.022. TEXTBOOK REVIEW AND ADOPTION. (a) The agency
18 [~~State Board of Education~~] shall adopt a review and adoption cycle
19 for textbooks for elementary grade levels, including
20 prekindergarten, and secondary grade levels, for each subject in
21 the required curriculum under Section 28.002.

22 (b) The agency [~~board~~] shall organize the cycle for subjects
23 in the foundation curriculum so that not more than one-sixth of the
24 textbooks for subjects in the foundation curriculum are reviewed
25 each year. The commissioner [~~board~~] shall adopt rules to provide
26 for a full and complete investigation of textbooks for each subject
27 in the foundation curriculum at least every six years. The adoption

1 of textbooks for a subject in the foundation curriculum may be
2 extended beyond the six-year period only if the content of
3 textbooks for a subject is sufficiently current.

4 (c) The commissioner [~~board~~] shall adopt rules to provide
5 for a full and complete investigation of textbooks for each subject
6 in the enrichment curriculum on a cycle the agency [~~board~~]
7 considers appropriate.

8 (d) At least 24 months before the beginning of the school
9 year for which textbooks for a particular subject and grade level
10 will be purchased under the review and adoption cycle adopted by the
11 agency [~~board~~], the agency [~~board~~] shall publish notice of the
12 review and adoption cycle for those textbooks.

13 (e) The agency [~~board~~] shall designate a request for
14 production of textbooks in a subject area and grade level by the
15 school year in which the textbooks are intended to be made available
16 in classrooms and not by the school year in which the agency [~~board~~]
17 makes the request for production.

18 (f) The agency [~~board~~] shall amend any request for
19 production issued for the purchase of textbooks to conform to the
20 textbook funding levels provided by the General Appropriations Act
21 for the year of implementation.

22 SECTION 7. Section 31.0221(a), Education Code, is amended
23 to read as follows:

24 (a) The commissioner [~~State Board of Education~~] shall adopt
25 rules for the midcycle review and adoption of a textbook for a
26 subject for which textbooks are not currently under review by the
27 agency [~~board~~] under Section 31.022. The rules must require:

1 (1) the publisher of the textbook to pay a fee to the
2 agency [~~board~~] to cover the cost of the midcycle review and adoption
3 of the textbook;

4 (2) the publisher of the textbook to enter into a
5 contract with the agency [~~board~~] concerning the textbook for a term
6 that ends at the same time as any contract entered into by the
7 agency [~~board~~] for another textbook for the same subject and grade
8 level; and

9 (3) a commitment from the publisher to provide the
10 textbook to school districts in the manner specified by the
11 publisher, which may include:

12 (A) providing the textbook to any district in a
13 regional education service center area identified by the publisher;
14 or

15 (B) providing a certain maximum number of
16 textbooks specified by the publisher.

17 SECTION 8. Section 31.0222, Education Code, is amended to
18 read as follows:

19 Sec. 31.0222. BUDGET-BALANCED CYCLE. In determining the
20 review and adoption cycle of textbooks under Section 31.022, the
21 agency [~~State Board of Education~~] shall:

22 (1) consult with the Legislative Budget Board and the
23 governor's office of budget, planning, and policy before approving
24 and publishing any notice or amendment of a cycle;

25 (2) review and consider:

26 (A) historic average funding levels for
27 textbooks purchased in previous bienniums;

1 (B) expected average costs of future textbook
2 purchases;

3 (C) anticipated student enrollment in future
4 years;

5 (D) scheduled revisions to curriculum; and

6 (E) the impact on the state budget of the
7 adoption of textbooks in all or some grade levels in a subject area;
8 and

9 (3) limit the cycle to subject areas for which
10 textbooks can be purchased with the funding anticipated to be
11 available in the state textbook fund for the school year in which
12 the textbooks are to be adopted.

13 SECTION 9. Section 31.023(a), Education Code, is amended to
14 read as follows:

15 (a) For each subject and grade level, the agency [~~State~~
16 ~~Board of Education~~] shall adopt two lists of textbooks. The
17 conforming list includes each textbook submitted for the subject
18 and grade level that meets applicable physical specifications
19 adopted by the agency [~~State Board of Education~~] and contains
20 material covering each element of the essential knowledge and
21 skills of the subject and grade level in the student version of the
22 textbook, as well as in the teacher version of the textbook, as
23 determined [~~by the State Board of Education~~] under Section 28.002
24 and adopted under Section 31.024. The nonconforming list includes
25 each textbook submitted for the subject and grade level that:

26 (1) meets applicable physical specifications adopted
27 by the agency [~~State Board of Education~~];

1 (2) contains material covering at least half, but not
2 all, of the elements of the essential knowledge and skills of the
3 subject and grade level in the student version of the textbook, as
4 well as in the teacher version of the textbook; and

5 (3) is adopted under Section 31.024.

6 SECTION 10. Section 31.0231(c), Education Code, is amended
7 to read as follows:

8 (c) [~~Before the commissioner places an electronic textbook~~
9 ~~or instructional material on the list adopted under Subsection (a),~~
10 ~~the State Board of Education must be given an opportunity to comment~~
11 ~~on the electronic textbook or instructional material.] An
12 electronic textbook or instructional material placed on the list
13 adopted under Subsection (a):~~

14 (1) must be reviewed and recommended to the
15 commissioner by a panel of recognized experts in the subject area of
16 the electronic textbook or instructional material and experts in
17 education technology;

18 (2) must satisfy criteria adopted for the purpose by
19 commissioner rule; and

20 (3) must meet the National Instructional Materials
21 Accessibility Standard, to the extent practicable as determined by
22 the commissioner.

23 SECTION 11. Section 31.024, Education Code, is amended to
24 read as follows:

25 Sec. 31.024. ADOPTION BY AGENCY [~~STATE BOARD OF EDUCATION~~].

26 (a) The agency [~~By majority vote, the State Board of Education~~]
27 shall:

1 (1) place each submitted textbook on a conforming or
2 nonconforming list; or

3 (2) reject a textbook submitted for placement on a
4 conforming or nonconforming list.

5 (b) Not later than December 1 of the year preceding the
6 school year for which the textbooks for a particular subject and
7 grade level will be purchased under the cycle adopted by the agency
8 [~~board~~] under Section 31.022, the agency [~~board~~] shall provide the
9 lists of adopted textbooks to each school district. Each
10 nonconforming list must include the reasons an adopted textbook is
11 not eligible for the conforming list.

12 SECTION 12. Section 31.0241(b), Education Code, is amended
13 to read as follows:

14 (b) The agency [~~State Board of Education~~] shall place an
15 open-source textbook for a secondary-level course submitted for
16 adoption by an eligible institution on a conforming or
17 nonconforming list if:

18 (1) the textbook is written, compiled, or edited
19 primarily by faculty of the eligible institution who specialize in
20 the subject area of the textbook;

21 (2) the eligible institution identifies each
22 contributing author;

23 (3) the appropriate department of the eligible
24 institution certifies the textbook for accuracy; and

25 (4) the eligible institution determines that the
26 textbook qualifies for placement on the conforming or nonconforming
27 list based on the extent to which the textbook covers the essential

1 knowledge and skills identified under Section 28.002 for the
2 subject for which the textbook is written and certifies that:

3 (A) for a textbook for a senior-level course, a
4 student who successfully completes a course based on the textbook
5 will be prepared, without remediation, for entry into the eligible
6 institution's freshman-level course in that subject; or

7 (B) for a textbook for a junior-level and
8 senior-level course, a student who successfully completes the
9 junior-level course based on the textbook will be prepared for
10 entry into the senior-level course.

11 SECTION 13. Section 31.025(a), Education Code, is amended
12 to read as follows:

13 (a) The agency [~~State Board of Education~~] shall set a limit
14 on the cost that may be paid from the state textbook fund for a
15 textbook placed on the conforming or nonconforming list for a
16 particular subject and grade level. The agency [~~board~~] may not
17 reject a textbook for placement on the conforming or nonconforming
18 list because the textbook's price exceeds the limit established
19 under this subsection.

20 SECTION 14. Sections 31.026(a) and (b), Education Code, are
21 amended to read as follows:

22 (a) The agency [~~State Board of Education~~] shall execute a
23 contract:

24 (1) for the purchase of each adopted textbook other
25 than an electronic textbook; and

26 (2) for the purchase or licensing of each adopted
27 electronic textbook.

1 (b) A contract must require the publisher to provide the
2 number of textbooks required by school districts in this state for
3 the term of the contract, which must coincide with the agency's
4 [~~board's~~] adoption cycle.

5 SECTION 15. Section 31.0261, Education Code, is amended to
6 read as follows:

7 Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE
8 TEXTBOOKS. The agency [~~State Board of Education~~] may execute a
9 contract for the printing of an open-source textbook listed on the
10 conforming or nonconforming list. The contract must allow a school
11 district to requisition printed copies of an open-source textbook
12 as provided by Section 31.103.

13 SECTION 16. Sections 31.028(a), (b), and (c), Education
14 Code, are amended to read as follows:

15 (a) The agency [~~State Board of Education~~] may purchase
16 special textbooks for the education of blind and visually impaired
17 students in public schools. In addition, for a teacher who is blind
18 or visually impaired, the agency [~~board~~] shall provide a teacher's
19 edition in Braille or large type, as requested by the teacher, for
20 each textbook the teacher uses in the instruction of students. The
21 teacher edition must be available at the same time the student
22 textbooks become available.

23 (b) The publisher of an adopted textbook shall provide the
24 agency with computerized textbook files for the production of
25 Braille textbooks or other versions of textbooks to be used by
26 students with disabilities, on request of the agency [~~State Board~~
27 ~~of Education~~]. A publisher shall arrange computerized textbook

1 files in one of several optional formats specified by the agency
2 [~~State Board of Education~~].

3 (c) The agency [~~board~~] may also enter into agreements
4 providing for the acceptance, requisition, and distribution of
5 special textbooks and instructional aids pursuant to 20 U.S.C.
6 Section 101 et seq. for use by students enrolled in:

- 7 (1) public schools; or
8 (2) private nonprofit schools, if state funds, other
9 than for administrative costs, are not involved.

10 SECTION 17. Section 31.029, Education Code, is amended to
11 read as follows:

12 Sec. 31.029. BILINGUAL TEXTBOOKS. The agency [~~board~~] shall
13 purchase or otherwise acquire textbooks for use in bilingual
14 education classes.

15 SECTION 18. Section 31.030, Education Code, is amended to
16 read as follows:

17 Sec. 31.030. USED TEXTBOOKS. The commissioner [~~State Board~~
18 ~~of Education~~] shall adopt rules to ensure that used textbooks sold
19 to school districts and open-enrollment charter schools are not
20 sample copies that contain factual errors. The rules may provide
21 for the imposition of an administrative penalty in accordance with
22 Section 31.151 against a seller of used textbooks who knowingly
23 violates this section.

24 SECTION 19. Sections 31.035(a), (b), and (f), Education
25 Code, are amended to read as follows:

26 (a) Notwithstanding any other provision of this subchapter,
27 the agency [~~State Board of Education~~] may adopt supplemental

1 textbooks that are not on the conforming or nonconforming list
2 under Section 31.023. The agency [~~State Board of Education~~] may
3 adopt a supplemental textbook under this section only if the
4 textbook:

5 (1) contains, as determined by the agency, material
6 covering one or more primary focal points or primary topics of a
7 subject in the required curriculum under Section 28.002 [~~as~~
8 ~~determined by the State Board of Education~~];

9 (2) is not designed to serve as the sole textbook for a
10 full course;

11 (3) meets applicable physical specifications adopted
12 by the agency [~~State Board of Education~~]; and

13 (4) is free from factual errors.

14 (b) The agency [~~State Board of Education~~] shall identify the
15 essential knowledge and skills identified under Section 28.002 that
16 are covered by a supplemental textbook adopted by the agency
17 [~~board~~] under this section.

18 (f) A school district or open-enrollment charter school
19 that requisitions supplemental textbooks under Subsection (d)(2)
20 shall certify to the agency that the supplemental textbooks, in
21 combination with any other textbooks or supplemental textbooks used
22 by the district or school, cover the essential knowledge and skills
23 identified under Section 28.002 [~~by the State Board of Education~~]
24 for the subject and grade level for which the district or school is
25 requisitioning the supplemental textbooks.

26 SECTION 20. Section 31.073(b), Education Code, is amended
27 to read as follows:

1 (b) If a school district or open-enrollment charter school
2 selects a state-developed open-source textbook instead of another
3 textbook adopted under Subchapter B, the difference between the
4 cost determined by the commissioner under Subsection (a) and the
5 maximum price for a textbook in the same subject area, as determined
6 by the agency [~~State Board of Education~~] under Section 31.025,
7 shall be allocated as follows:

8 (1) 50 percent of the amount shall be credited to the
9 state textbook fund under Section 31.021 to be used for purposes of
10 this subchapter; and

11 (2) 50 percent of the amount shall be credited to the
12 school district or open-enrollment charter school for use as
13 provided by Section 31.1011(c).

14 SECTION 21. Sections 31.101(a), (c-1), and (d), Education
15 Code, are amended to read as follows:

16 (a) Each year, during a period established by the agency
17 [~~State Board of Education~~], the board of trustees of each school
18 district and the governing body of each open-enrollment charter
19 school shall:

20 (1) for a subject in the foundation curriculum, notify
21 the agency [~~State Board of Education~~] of the textbooks selected by
22 the board of trustees or governing body for the following school
23 year from among the textbooks on the appropriate conforming or
24 nonconforming list, including the list adopted under Section
25 31.0231; or

26 (2) for a subject in the enrichment curriculum:

27 (A) notify the agency [~~State Board of Education~~]

1 of each textbook selected by the board of trustees or governing body
2 for the following school year from among the textbooks on the
3 appropriate conforming or nonconforming list, including the list
4 adopted under Section 31.0231; or

5 (B) notify the agency [~~State Board of Education~~]
6 that the board of trustees or governing body has selected a textbook
7 that is not on the conforming or nonconforming list.

8 (c-1) Notwithstanding any other provision of this chapter,
9 a school district or open-enrollment charter school must purchase a
10 classroom set of textbooks adopted by the agency [~~State Board of~~
11 ~~Education~~] under Section 31.023 or 31.035 for each subject and
12 grade level in the foundation and enrichment curriculum.

13 (d) For a textbook that is not on the conforming or
14 nonconforming list, a school district or open-enrollment charter
15 school must use the textbook for the period of the review and
16 adoption cycle the agency [~~State Board of Education~~] has
17 established for the subject and grade level for which the textbook
18 is used.

19 SECTION 22. Section 31.103(b), Education Code, is amended
20 to read as follows:

21 (b) A requisition for textbooks for the following school
22 year shall be based on the maximum attendance reports under
23 Subsection (a), plus an additional 10 percent, except as otherwise
24 provided. A school district or open-enrollment charter school
25 shall make a requisition for a textbook on the conforming or
26 nonconforming list through the commissioner to the state depository
27 designated by the publisher or as provided by commissioner [~~State~~

1 ~~Board of Education~~] rule, as applicable, not later than June 1 of
2 each year. The designated state depository or, if the publisher or
3 manufacturer does not have a designated textbook depository in this
4 state under Section 31.151(a)(6)(B), the publisher or manufacturer
5 shall fill a requisition approved by the agency at any other time in
6 the case of an emergency. As made necessary by available funds, the
7 commissioner shall reduce the additional percentage of attendance
8 for which a district or school may requisition textbooks. The
9 commissioner may, on application of a district or school that is
10 experiencing high enrollment growth, increase the additional
11 percentage of attendance for which the district or school may
12 requisition textbooks.

13 SECTION 23. Section 31.1031, Education Code, is amended to
14 read as follows:

15 Sec. 31.1031. SHORTAGE OF REQUISITIONED TEXTBOOKS. If a
16 school district or open-enrollment charter school does not have a
17 sufficient number of copies of a textbook used by the district or
18 school for use during the following school year, and a sufficient
19 number of additional copies will not be available from the
20 depository or the publisher within the time specified by Section
21 31.151(a)(8), the district or school is entitled to:

22 (1) be reimbursed from the state textbook fund, at a
23 rate and in the manner provided by commissioner [~~State Board of~~
24 ~~Education~~] rule, for the purchase of a sufficient number of used
25 adopted textbooks; or

26 (2) return currently used textbooks to the
27 commissioner in exchange for sufficient copies, if available, of

1 other textbooks on the conforming or nonconforming list to be used
2 during the following school year.

3 SECTION 24. Sections 31.151(a), (b), and (c), Education
4 Code, are amended to read as follows:

5 (a) A publisher or manufacturer of textbooks:

6 (1) shall furnish any textbook the publisher or
7 manufacturer offers in this state, at a price that does not exceed
8 the lowest price at which the publisher offers that textbook for
9 adoption or sale to any state, public school, or school district in
10 the United States;

11 (2) shall automatically reduce the price of a textbook
12 sold for use in a school district or open-enrollment charter school
13 to the extent that the price is reduced elsewhere in the United
14 States;

15 (3) shall provide any textbook or ancillary item free
16 of charge in this state to the same extent that the publisher or
17 manufacturer provides the textbook or ancillary item free of charge
18 to any state, public school, or school district in the United
19 States;

20 (4) shall guarantee that each copy of a textbook sold
21 in this state is at least equal in quality to copies of that
22 textbook sold elsewhere in the United States and is free from
23 factual error;

24 (5) may not become associated or connected with,
25 directly or indirectly, any combination in restraint of trade in
26 textbooks or enter into any understanding or combination to control
27 prices or restrict competition in the sale of textbooks for use in

1 this state;

2 (6) shall:

3 (A) maintain a depository in this state or
4 arrange with a depository in this state to receive and fill orders
5 for textbooks, other than open-source textbooks, on-line
6 textbooks, or on-line textbook components, consistent with
7 commissioner [~~State Board of Education~~] rules; or

8 (B) deliver textbooks to a school district or
9 open-enrollment charter school without a delivery charge to the
10 school district, open-enrollment charter school, or state, if:

11 (i) the publisher or manufacturer does not
12 maintain or arrange with a depository in this state under Paragraph
13 (A) and the publisher's or manufacturer's textbooks and related
14 products are warehoused or otherwise stored less than 300 miles
15 from a border of this state; or

16 (ii) the textbooks are open-source
17 textbooks, on-line textbooks, or on-line textbook components;

18 (7) shall, at the time an order for textbooks is
19 acknowledged, provide to school districts or open-enrollment
20 charter schools an accurate shipping date for textbooks that are
21 back-ordered;

22 (8) shall guarantee delivery of textbooks at least 10
23 business days before the opening day of school of the year for which
24 the textbooks are ordered if the textbooks are ordered by a date
25 specified in the sales contract; and

26 (9) shall submit to the agency [~~State Board of~~
27 ~~Education~~] an affidavit certifying any textbook the publisher or

1 manufacturer offers in this state to be free of factual errors at
2 the time the publisher executes the contract required by Section
3 31.026.

4 (b) The commissioner [~~State Board of Education~~] may impose a
5 reasonable administrative penalty against a publisher or
6 manufacturer who knowingly violates Subsection (a). The
7 commissioner [~~board~~] shall provide for a hearing to be held to
8 determine whether a penalty is to be imposed and, if so, the amount
9 of the penalty. The commissioner [~~board~~] shall base the amount of
10 the penalty on:

- 11 (1) the seriousness of the violation;
- 12 (2) any history of a previous violation;
- 13 (3) the amount necessary to deter a future violation;
- 14 (4) any effort to correct the violation; and
- 15 (5) any other matter justice requires.

16 (c) A hearing under Subsection (b) shall be held according
17 to rules adopted by the commissioner [~~State Board of Education~~].

18 SECTION 25. Section 31.201, Education Code, is amended to
19 read as follows:

20 Sec. 31.201. DISPOSITION OF TEXTBOOKS. (a) The
21 commissioner [~~, with the approval of the State Board of Education,~~]
22 may provide for the disposition of:

23 (1) textbooks, other than electronic textbooks, that
24 are no longer in acceptable condition to be used for instructional
25 purposes; or

26 (2) discontinued textbooks, other than electronic
27 textbooks.

1 (b) The commissioner, as provided by rules adopted by the
2 commissioner [~~State Board of Education~~], shall make available on
3 request copies of discontinued textbooks, other than electronic
4 textbooks, for use in libraries maintained in municipal and county
5 jails, facilities operated by the Texas Department of Criminal
6 Justice for the imprisonment of individuals convicted of felonies
7 other than state jail felonies, and other state agencies.

8 (c) The commissioner [~~State Board of Education~~] shall adopt
9 rules under which a school district or open-enrollment charter
10 school may donate discontinued textbooks, other than electronic
11 textbooks, to a student, to an adult education program, or to a
12 nonprofit organization.

13 SECTION 26. Effective May 1, 2012, Section 7.102(c)(23),
14 Education Code, is repealed.

15 SECTION 27. (a) Effective May 1, 2012:

16 (1) all functions and activities concerning textbooks
17 performed by the State Board of Education immediately before that
18 date, other than such functions and activities assigned to the
19 board by the constitution of this state, are transferred to the
20 Texas Education Agency;

21 (2) a rule, form, policy, procedure, or decision of
22 the State Board of Education concerning textbooks, other than such
23 a rule, form, policy, procedure, or decision relating to a function
24 or activity assigned to the board by the constitution of this state,
25 continues in effect as a rule, form, policy, procedure, or decision
26 of the commissioner of education and remains in effect until
27 amended or replaced by the commissioner of education;

1 (3) a reference in law or an administrative rule to the
2 State Board of Education concerning textbooks means the
3 commissioner of education, other than such a reference to the State
4 Board of Education relating to a function or activity assigned to
5 the board by the constitution of this state;

6 (4) all money, contracts, leases, rights, property,
7 records, and bonds and other obligations of the State Board of
8 Education concerning textbooks are transferred to the Texas
9 Education Agency, except that money or a contract, lease, right,
10 property, record, or bond or other obligation relating to a
11 function or activity assigned to the board by the constitution of
12 this state is not transferred;

13 (5) a court case, administrative proceeding, contract
14 negotiation, or other proceeding involving the State Board of
15 Education concerning textbooks, other than such a proceeding
16 relating to a function or activity assigned to the board by the
17 constitution of this state, is transferred without change in status
18 to the commissioner of education, and the commissioner of education
19 assumes, without a change in status, the position of the State Board
20 of Education in a negotiation or proceeding relating to an activity
21 transferred by this Act to the commissioner of education to which
22 the State Board of Education is a party;

23 (6) an employee of the State Board of Education whose
24 duties relate solely or primarily to textbooks, other than such an
25 employee whose duties relate solely or primarily to a function or
26 activity assigned to the board by the constitution of this state,
27 becomes an employee of the Texas Education Agency; and

1 (7) any unexpended and unobligated balance of money
2 appropriated by the legislature for the State Board of Education to
3 carry out a function or activity related solely or primarily to
4 textbooks, other than money appropriated to enable the board to
5 carry out a function or activity assigned by the constitution of
6 this state, is transferred to the Texas Education Agency.

7 (b) In the period beginning on January 1, 2012, and ending
8 on April 30, 2012:

9 (1) the State Board of Education shall continue to
10 perform functions and activities under the Education Code or other
11 law as if the law had not been amended or repealed, as applicable,
12 and the former law is continued in effect for that purpose; and

13 (2) a person who is authorized or required by law to
14 take an action relating to the State Board of Education or a member
15 of the State Board of Education shall continue to take that action
16 under the law as if the law had not been amended or repealed, as
17 applicable, and the former law is continued in effect for that
18 purpose.

19 SECTION 28. Before May 1, 2012, the State Board of Education
20 may agree with the commissioner of education to transfer any
21 property of the State Board of Education to the Texas Education
22 Agency to implement the transfer required by Section 27 of this Act.

23 SECTION 29. This Act takes effect January 1, 2012.