

By: Frullo

H.B. No. 2464

A BILL TO BE ENTITLED

AN ACT

relating to textbooks adopted by the State Board of Education for public schools.

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

SECTION 1. Section 31.023, Education Code, is amended to read as follows:

Sec. 31.023. TEXTBOOK LISTS. (a) For each subject and grade level, the State Board of Education shall adopt an exemplary list, a conforming list, and a nonconforming list [~~two lists~~] of textbooks. The exemplary list includes each textbook that complies with the requirements of Subsection (a-1). The conforming list includes each textbook submitted for the subject and grade level that does not qualify for the exemplary list but meets applicable physical specifications adopted by the State Board of Education and contains material covering each element of the essential knowledge and skills of the subject and grade level in the student version of the textbook, as well as in the teacher version of the textbook, as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024. The nonconforming list includes each textbook submitted for the subject and grade level that:

(1) meets applicable physical specifications adopted by the State Board of Education;

(2) contains material covering at least half, but not all, of the elements of the essential knowledge and skills of the

1 subject and grade level in the student version of the textbook, as  
2 well as in the teacher version of the textbook; and

3 (3) is adopted under Section 31.024.

4 (a-1) The exemplary list includes each textbook submitted  
5 for the subject and grade level that:

6 (1) meets requirements of the conforming list under  
7 Subsection (a); and

8 (2) incorporates technological and multimedia-based  
9 elements in at least 50 percent of the textbook, as determined by  
10 the State Board of Education, including:

11 (A) interactive simulations such as  
12 three-dimensional models illustrating diagrams or concepts that  
13 are paired with worksheets, assessments, projects, or other  
14 materials delivered by technology;

15 (B) realistic applications of textbook subject  
16 matter such as recorded interviews with experts, industry case  
17 studies, and information on career options in the subject area; and

18 (C) multisensory instruction that accommodates  
19 different learning styles of students, including auditory, visual,  
20 and kinesthetic learners.

21 (b) Each textbook on an exemplary, ~~[a]~~ conforming, or  
22 nonconforming list must be free from factual errors.

23 SECTION 2. Section 31.024, Education Code, is amended to  
24 read as follows:

25 Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By  
26 majority vote, the State Board of Education shall:

27 (1) place each submitted textbook on an exemplary, ~~[a]~~

1 conforming~~l~~ or nonconforming list; or

2 (2) reject a textbook submitted for placement on an  
3 exemplary, [~~a~~] conforming~~l~~ or nonconforming list.

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

11 SECTION 3. Sections 31.0241(b) and (c), Education Code, are  
12 amended to read as follows:

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

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

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

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

24 (4) the eligible institution determines that the  
25 textbook qualifies for placement on the exemplary, conforming~~l~~ or  
26 nonconforming list based on the extent to which the textbook covers  
27 the essential knowledge and skills identified under Section 28.002

1 for the subject for which the textbook is written and certifies  
2 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 (c) This section does not prohibit an eligible institution  
12 from submitting a textbook for placement on an exemplary, [~~a~~]  
13 conforming, or nonconforming list through any other adoption  
14 process provided by this chapter.

15 SECTION 4. Section 31.025, Education Code, is amended to  
16 read as follows:

17 Sec. 31.025. LIMITATION ON COST. (a) The State Board of  
18 Education shall set a limit on the cost that may be paid from the  
19 state textbook fund for a textbook placed on the exemplary,  
20 conforming, or nonconforming list for a particular subject and  
21 grade level. The board may not reject a textbook for placement on  
22 the exemplary, conforming, or nonconforming list because the  
23 textbook's price exceeds the limit established under this  
24 subsection.

25 (b) Subject to Section 31.151, if a school district or  
26 open-enrollment charter school selects a textbook from an  
27 exemplary, [~~a~~] conforming, or nonconforming list that exceeds the

1 limit established under Subsection (a):

2 (1) the state shall pay the publisher an amount equal  
3 to the limit established under Subsection (a) multiplied by the  
4 number of textbooks the district or school requisitions; and

5 (2) the district or school is responsible for the  
6 remainder of the cost.

7 SECTION 5. Section 31.0261, Education Code, is amended to  
8 read as follows:

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

15 SECTION 6. Sections 31.035(a), (d), and (e), Education  
16 Code, are amended to read as follows:

17 (a) Notwithstanding any other provision of this subchapter,  
18 the State Board of Education may adopt supplemental textbooks that  
19 are not on the exemplary, conforming, or nonconforming list under  
20 Section 31.023. The State Board of Education may adopt a  
21 supplemental textbook under this section only if the textbook:

22 (1) contains material covering one or more primary  
23 focal points or primary topics of a subject in the required  
24 curriculum under Section 28.002, as determined by the State Board  
25 of Education;

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

1           (3) meets applicable physical specifications adopted  
2 by the State Board of Education; and

3           (4) is free from factual errors.

4           (d) A school district or open-enrollment charter school may  
5 requisition a supplemental textbook adopted under this section only  
6 if the district or school:

7           (1) uses textbook credits received under Section  
8 31.1011 to purchase the supplemental textbook; or

9           (2) instead of requisitioning a textbook on the  
10 exemplary or conforming list under Section 31.023 for a course in  
11 the foundation curriculum under Section 28.002, requisitions the  
12 supplemental textbook along with other supplemental textbooks or  
13 textbooks on the nonconforming list under Section 31.023 that in  
14 combination cover each element of the essential knowledge and  
15 skills for the course for which the district or school is  
16 requisitioning the supplemental textbooks.

17           (e) If the total cost for the supplemental textbooks  
18 requisitioned by a school district or open-enrollment charter  
19 school under Subsection (d)(2) for a course is less than the limit  
20 on the cost under Section 31.025(a) for a single textbook on the  
21 exemplary or conforming list for the course, the district or school  
22 is entitled to receive credit under Section 31.1011 in the same  
23 manner as if the single textbook were selected. If the total cost  
24 for the supplemental textbooks requisitioned by a school district  
25 or open-enrollment charter school under Subsection (d)(2) for a  
26 course is greater than the limit on the cost under Section 31.025(a)  
27 for a single textbook on the exemplary or conforming list for the

1 course, the district or school may apply credits received under  
2 Section 31.1011 toward the difference for the supplemental  
3 textbooks.

4 SECTION 7. Section 31.072(a), Education Code, is amended to  
5 read as follows:

6 (a) A state-developed open-source textbook must:

7 (1) be evaluated by teachers or other experts, as  
8 determined by the commissioner, before purchase; and

9 (2) meet the requirements for inclusion on an  
10 exemplary, [~~a~~] conforming, or nonconforming textbook list under  
11 Section 31.023.

12 SECTION 8. Sections 31.101(a), (b), (c), (d), and (e),  
13 Education Code, are amended to read as follows:

14 (a) Each year, during a period established by the State  
15 Board of Education, the board of trustees of each school district  
16 and the governing body of each open-enrollment charter school  
17 shall:

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

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

25 (A) notify the State Board of Education of each  
26 textbook selected by the board of trustees or governing body for the  
27 following school year from among the textbooks on the appropriate

1 exemplary, conforming, or nonconforming list, including the list  
2 adopted under Section 31.0231; or

3 (B) notify the State Board of Education that the  
4 board of trustees or governing body has selected a textbook that is  
5 not on the exemplary, conforming, or nonconforming list.

6 (b) If a school district or open-enrollment charter school  
7 selects a textbook for a particular subject in the enrichment  
8 curriculum and grade level that is not on the exemplary,  
9 conforming, or nonconforming list, the state shall pay to the  
10 district or school an amount equal to the lesser of:

11 (1) 70 percent of the cost to the district of the  
12 textbook, multiplied by the number of textbooks the district or  
13 school needs for that subject and grade level; or

14 (2) 70 percent of the limitation established under  
15 Section 31.025 for a textbook for that subject and grade level,  
16 multiplied by the number of textbooks the district or school needs  
17 for that subject and grade level.

18 (c) A school district or open-enrollment charter school  
19 that selects a textbook that is not on the exemplary, conforming, or  
20 nonconforming list or that selects an electronic textbook or  
21 instructional material that is on the list adopted under Section  
22 31.0231:

23 (1) is responsible for the portion of the cost of the  
24 textbook that is not paid by the state under Subsection (b); and

25 (2) may use funds received from the state under  
26 Subsection (b) or (b-1), as applicable, for purchasing the  
27 textbook, electronic textbook, or instructional material for which



1 the funds were received or supplementing the allotment under  
2 Section 32.005 to purchase technological equipment according to  
3 rules adopted by the commissioner.

4 (d) For a textbook that is not on the exemplary, conforming,  
5 or nonconforming list, a school district or open-enrollment charter  
6 school must use the textbook for the period of the review and  
7 adoption cycle the State Board of Education has established for the  
8 subject and grade level for which the textbook is used.

9 (e) A school district or open-enrollment charter school  
10 that selects a subscription-based electronic textbook or  
11 instructional material on the exemplary or conforming list under  
12 Section 31.023 or the list adopted under Section 31.0231 may cancel  
13 the subscription and subscribe to a new electronic textbook or  
14 instructional material on the exemplary or conforming list under  
15 Section 31.023 or the list adopted under Section 31.0231 before the  
16 end of the state contract period under Section 31.026 if:

17 (1) the district or school has used the electronic  
18 textbook or instructional material for at least one school year;  
19 and

20 (2) the agency approves the change based on a written  
21 request to the agency by the district or school that specifies the  
22 reasons for changing the electronic textbook or instructional  
23 material used by the district or school.

24 SECTION 9. Section 31.1011(c), Education Code, is amended  
25 to read as follows:

26 (c) Fifty percent of the total textbook credit of a school  
27 district or open-enrollment charter school shall be credited to the

1 state textbook fund, and 50 percent of the credit shall be credited  
2 to the district or school to apply toward the requisition of:

3 (1) additional textbooks or electronic textbooks that  
4 are on the exemplary, conforming, or nonconforming list under  
5 Section 31.023 or the components of such textbooks, including any  
6 electronic components;

7 (2) supplemental textbooks as provided by Section  
8 31.035;

9 (3) electronic textbooks or instructional materials  
10 on the list adopted under Section 31.0231; or

11 (4) technological equipment under Section 31.021(f).

12 SECTION 10. Sections 31.103(b) and (c), Education Code, are  
13 amended to read as follows:

14 (b) A requisition for textbooks for the following school  
15 year shall be based on the maximum attendance reports under  
16 Subsection (a), plus an additional 10 percent, except as otherwise  
17 provided. A school district or open-enrollment charter school  
18 shall make a requisition for a textbook on the exemplary,  
19 conforming, or nonconforming list through the commissioner to the  
20 state depository designated by the publisher or as provided by  
21 State Board of Education rule, as applicable, not later than June 1  
22 of each year. The designated state depository or, if the publisher  
23 or manufacturer does not have a designated textbook depository in  
24 this state under Section 31.151(a)(6)(B), the publisher or  
25 manufacturer shall fill a requisition approved by the agency at any  
26 other time in the case of an emergency. As made necessary by  
27 available funds, the commissioner shall reduce the additional

1 percentage of attendance for which a district or school may  
2 requisition textbooks. The commissioner may, on application of a  
3 district or school that is experiencing high enrollment growth,  
4 increase the additional percentage of attendance for which the  
5 district or school may requisition textbooks.

6 (c) In making a requisition under this section, a school  
7 district or open-enrollment charter school may requisition  
8 textbooks on the exemplary, conforming, or nonconforming list for  
9 grades above the grade level in which a student is enrolled, except  
10 that the total quantity of textbooks requisitioned under this  
11 section may not exceed the limit prescribed by Subsection (b).

12 SECTION 11. Section 31.1031, Education Code, is amended to  
13 read as follows:

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

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

25 (2) return currently used textbooks to the  
26 commissioner in exchange for sufficient copies, if available, of  
27 other textbooks on the exemplary, conforming, or nonconforming list

1 to be used during the following school year.

2           SECTION 12. The change in law made by Section 31.023,  
3 Education Code, as amended by this Act, applies only to the adoption  
4 of textbooks for which the State Board of Education publishes  
5 notice of the review and adoption cycle under Section 31.022(d),  
6 Education Code, on or after the effective date of this Act. The  
7 adoption of textbooks for which the State Board of Education  
8 publishes notice of the review and adoption cycle before the  
9 effective date of this Act is governed by the law in effect on the  
10 date of the publication of the notice of the review and adoption  
11 cycle, and the former law is continued in effect for that purpose.

12           SECTION 13. This Act takes effect September 1, 2011.