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SENATE BILL NO. 785

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health on February 1, 2018)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 22.1-241 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-241.1, relating to access to electronic textbooks and adequate connectivity.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-241 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-241.1 as follows:

§ 22.1-241. Contracts with publishers.

A. Local school boards shall either enter into written term contracts or issue purchase orders on an as-needed basis with publishers of textbooks approved by the Board for use in the public schools. Such written contracts or purchase orders for textbooks approved by the Board shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

The contract price shall not exceed the lowest wholesale price at which the textbook or textbooks involved in the contract are currently bid under contract anywhere in the United States.

If, subsequent to the date of any contract entered into by a local school board, the prices of textbooks named in the contract are reduced or the terms of the contract are made more favorable to purchase anywhere in the United States or a special or other edition of any book named in the contract is sold outside of Virginia at a lower price than contracted in the Commonwealth, the publisher shall grant the same reduction or terms to the local school board and give the local school board the option of using such special or other edition adapted for use in Virginia and at the lowest price at which such special edition is sold elsewhere and the contract shall so state.

B. Contracts and purchase orders with publishers of textbooks approved by the Board shall require the publisher to furnish an electronic file of the textbook in the National Instructional Materials Accessibility Standards (NIMAS) format that will then be deposited in the National Instructional Materials Access Center (NIMAC) from which accessible versions of the particular textbook may be produced for students with print disabilities, as defined in 20 U.S.C. § 1474. Publishers shall deliver the NIMAS file of the textbook on or before the date of delivery of the regular text version.

Contracts and purchase orders with publishers of textbooks approved by the Board for use in grades ~~6~~ 12 *six through 12* shall allow for the purchase of printed textbooks, printed textbooks with electronic files, or electronic textbooks separate and apart from printed versions of the same textbook. Each school board shall have the authority to purchase an assortment of textbooks in any of the three forms listed above, *subject to the provisions of § 22.1-241.1*.

C. Every school board shall order directly from the respective publishers the textbooks needed to supply the public schools in the school division. The publishers shall ship the textbooks to the school board. The purchase price of such textbooks shall be paid directly to the publishers by the school board.

D. With the approval of the local school board and the publisher, any private school within the school division that so requests may purchase from the local school board's contract with the publisher. Such private school shall be fully responsible for ordering, purchasing, and receiving shipments of books to be provided from the publisher pursuant to this section. The local school board shall be immune from any civil liability as a result of a private school purchasing from the local school board's contract.

§ 22.1-241.1. Access to electronic textbooks and adequate connectivity.

A. For the purposes of this section, "adequate connectivity" means bandwidth of at least one kilobit per second per enrolled student.

B. It is the policy of the Commonwealth that all textbooks approved by the Board for use in grades six through 12 shall be equally accessible to all students at school and in their residence.

C. No local school board shall require the use of any electronic textbook in any course in grades six through 12 unless the school board adopts a plan to ensure that on or before July 1, 2020, (i) each student enrolled in such course will have actual access at school and, if any assignment requires the use of such electronic textbook outside of school hours, in his residence to at least one personal computing device not shared with another student that contains an operating system and the hardware necessary to support the format of each electronic textbook expected to be used in such course and (ii) the relevant school will be equipped with the fiber optic or wireless broadband connections necessary to provide adequate connectivity.

D. The Board shall annually develop, update, and distribute to each local school division a list of personal computing devices that comply with this section.