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HOUSE BILL NO. 1550

Offered January 12, 2011

Prefiled January 3, 2011

A BILL to amend and reenact §§ 22.1-238, 22.1-241, and 22.1-242 of the Code of Virginia, relating to textbook publishers.

Patrons—Englin, Keam and Kory

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-238, 22.1-241, and 22.1-242 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-238. Approval of textbook publishers.

A. The Board of Education shall have the authority to ~~approve~~ *certify publishers of* textbooks suitable for use in the public schools and shall have authority to approve instructional aids and materials for use in the public schools. *In order to be certified by the Board, a publisher shall agree to (i) employ established content experts, in accordance with guidelines established by the Board, to review every textbook available for sale to Virginia school divisions, (ii) list with each book the content experts that have reviewed it, (iii) certify that the content of books for sale to Virginia school divisions in Standards of Learning subjects meet the appropriate mandated content standards, and (iv) agree to be fully responsible for replacing, correcting, or otherwise fixing any mistakes discovered by the Board or the Superintendent.* The Board shall publish a list of all ~~approved textbooks~~ *certified textbook publishers* on its website ~~and shall list the publisher and the current lowest wholesale price of such textbooks as well as guidelines defining what constitutes an established content expert.~~

B. Any school board may use textbooks *from a publisher not approved* ~~approved~~ *certified* by the Board provided the school board selects such books in accordance with regulations promulgated by the Board.

C. For the purposes of this chapter, the term "textbooks" means print or electronic media for student use that serve as the primary curriculum basis for a grade-level subject or course.

§ 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 *certified* 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 for textbooks from publishers of textbooks approved~~ *certified* 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.

C. Contracts and purchase orders ~~with for textbooks from publishers of textbooks approved~~ *certified* by the Board for use in grades 6-12 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.

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

59 school division that so requests may purchase from the local school board's contract with the publisher.
60 Such private school shall be fully responsible for ordering, purchasing, and receiving shipments of books
61 to be provided from the publisher pursuant to this section. The local school board shall be immune from
62 any civil liability as a result of a private school purchasing from the local school board's contract.
63 § 22.1-242. State Board to adopt regulations.
64 The Board shall adopt regulations governing (i) the purchase of textbooks approved by it for use in
65 the public schools directly from ~~the~~ *Board-certified* publishers by school boards and (ii) the distribution
66 of such textbooks for the use by children attending public schools in Virginia.