

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 719

BY: WRIGHT

AS INTRODUCED

AN ACT RELATING TO SCHOOLS; AMENDING 70 O.S. 1991,
SECTIONS 16-102, 16-103, 16-104, 16-106, 16-107,
16-110, 16-111, 16-111.1 AND 16-119, WHICH RELATE
TO SELECTION OF TEXTBOOKS, ADVERTISEMENTS FOR BOOKS
AND SEALED BIDS, EXAMINATION OF BIDS, ADOPTION OF
TEXTBOOKS, TERMS OF PUBLISHERS' CONTRACTS, ADOPTION
OF REVISED EDITIONS OF TEXTBOOKS, DISTRIBUTION OF
OFFICIAL MULTIPLE TEXTBOOKS LIST, LOCAL TEXTBOOK
COMMITTEES, SUPPLEMENTARY TEXTBOOKS AND MATERIALS,
AND SAMPLE TEXTBOOKS; CHANGING PROCEDURE FOR
COMPILING OFFICIAL MULTIPLE TEXTBOOKS LIST;
PROVIDING FOR EVALUATION AND RATING OF TEXTBOOKS;
CHANGING REQUIREMENTS FOR COMPLIANCE WITH CERTAIN
STATUTE; DELETING PROHIBITION ON PURCHASE OF
CERTAIN TEXTBOOKS; DELETING OBSOLETE LANGUAGE;
PROVIDING AN EFFECTIVE DATE; AND DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 16-102, is amended to read as follows:

Section 16-102. The State Textbook Committee shall meet at the call of the chairman as often as necessary, with two (2) weeks' public notice, to discharge its responsibilities. Not later than the first day of December of each year the State Textbook Committee shall meet at the call of the chairman at the State Capitol and ~~select~~ evaluate textbooks for subjects taught in the public schools of the state up to and including the twelfth grade, which ~~selections~~ evaluations shall be valid for not more than five (5) years for every textbook. The Committee shall evaluate all textbooks which have been included in bids which have not been disqualified pursuant to Section 16-103 of this title. The Committee shall evaluate each textbook for suitability for use in the public schools, including, but not limited to, timeliness, accuracy, and balance in presentation, and shall rate each textbook. "Textbooks", as used in Sections 16-101 through 16-124 of this title, may also include instructional computer software complimentary to achieving learner outcomes prescribed by the State Board of Education including, but not limited to, applications using computer assisted instruction, interactive videodisc, other computer courseware, and magnetic media. ~~Said Committee shall select ten textbooks or series of books for each subject, but if there are not ten books satisfactory to the Committee, then it may select only such books as are in its judgment satisfactory for such subject.~~ A list of all books evaluated, along with the Committee's evaluation and rating of each book, shall constitute the official multiple textbook list from which local textbook committees shall adopt textbooks. The State Textbook Committee may determine that unusual or extraordinary circumstances exist in a particular subject area during the period for which textbooks have been ~~selected~~ evaluated for that subject area.

Unusual or extraordinary circumstances shall include but not be limited to significant new techniques of teaching in a particular subject area or significant new findings or discoveries in a particular subject area. Upon a determination by three-fourths (3/4) of the members of the State Textbook Committee that unusual or extraordinary circumstances exist in a particular subject area, the Committee may ~~select~~ evaluate one or more textbooks in that subject area for the remainder of the ~~adoption~~ evaluation period ~~notwithstanding the maximum limitation on the number of textbooks selected for a subject area.~~

~~The increase in the number of textbooks or series of textbooks from seven to ten shall be implemented at a time when the State Textbook Committee deems appropriate.~~

SECTION 2. AMENDATORY 70 O.S. 1991, Section 16-103, is amended to read as follows:

Section 16-103. The State Textbook Committee shall advertise for books in all basic subjects in such manner and for such time as it may deem best. Prior to June 1 of each year, the Committee shall advertise for sealed bids from publishers of textbooks for furnishing textbooks for the public schools of this state. Each bid shall state specifically and clearly the price at which each book will be furnished FOB the bidder's depository or delivered to any ordering school district in this state, and the price the books may be sold for through local retail book dealers, and shall be accompanied by a sample copy of each book offered in such bid, together with any teacher edition or teacher aids used with such book. A copy of each textbook for which a bid has been accepted by the Committee shall be displayed in at least one library or institution of higher education within each Congressional District in this state. The facility shall have free public access. The textbooks shall be displayed from the time they are accepted by the Committee until their final selection or rejection. A record of all

the books delivered direct to any school district shall be immediately furnished by the shipper and the school district to the State Board of Education. It shall be required that each bidder deposit with the State Treasurer such sums of money as the Committee may require, which shall be not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00). Each bid shall be accompanied by a sworn statement specifically:

1. stating whether the publisher is the owner of any interest or share in any other textbook publishing houses and, if so, giving the names and addresses thereof;

2. showing whether any member of the Committee is in any manner interested, directly or indirectly, in such person, firm, or corporation submitting such bid; and

3. showing the name and address of every committee, public official, or individual in this state who has been furnished, within the preceding twelve (12) months, any copy of the textbook or textbooks or any edition thereof included in the bid, together with the numbers and titles thereof furnished to each recipient.

If the fact shall be disclosed that any member of the Committee, State Textbook Director, or any employee of that office is interested in the bidder, it shall work a disqualification of such member, and he shall not be permitted to serve on the Committee, and the bidder shall be disqualified. If it shall be disclosed that such sworn statement does not accurately and completely give the information required, the State Textbook Committee shall disregard the bid. Oklahoma authors of school textbooks shall be permitted to receive the customary royalty, regardless of employment. The words "textbook" or "book" as used in this article shall include all printed materials intended for use in teaching. Only materials ~~approved~~ evaluated by the State Textbook Committee shall be purchased from State Textbook Funds.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 16-104, is amended to read as follows:

Section 16-104. All bids shall be sealed and delivered to the secretary of the State Textbook Committee, to be delivered by him to the Committee for the purpose of considering the bids. The ~~committee~~ Committee shall meet prior to August 15 of each year at the time and place mentioned in the advertisement, and then and there open and examine the sealed bids received, and make a full and complete investigation of all books and the bids accompanying the same. The Committee shall notify all publishers whose bids are not disqualified pursuant to Section 16-103 of this title. The Committee may use regular classroom teachers as consultants, who shall receive the same compensation and expenses as members of the Committee, but not more than five such consultants shall be used for any subject for which a book is to be ~~adopted~~ evaluated. ~~The books shall be selected after careful consideration of all the books presented, and the books selected for adoption shall be those which, in the opinion of the Committee, are best suited for the public schools in this state.~~ The Committee shall give consideration to any legislative resolution concerning textbook content and the testimony received at public hearings when ~~making the selections~~ preparing the evaluations. The Committee shall proceed without delay to ~~select~~ evaluate, for use of the public schools of this state, textbooks in the grades specified in this article ~~and shall notify publishers to whom contracts are awarded.~~ If the State Textbook Committee determines that significant inaccuracies exist in the contents of a textbook which has been bid or that information contained in the textbook is not current, the Committee ~~may adopt the book on a provisional basis.~~ ~~Final adoption of the textbook and use of textbook money shall be contingent upon the publisher providing a modified or revised textbook which is acceptable by the State Textbook Committee~~ shall so state in its evaluation.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 16-106, is amended to read as follows:

Section 16-106. A. All contracts with publishers shall be signed by the chairman and secretary of the State Textbook Committee on behalf of the state. Each contract shall stipulate the price at which each textbook will be sold to the State of Oklahoma, and that all copies supplied to the State of Oklahoma will be equal to or better than the official copy filed with the secretary of the Committee. The State Textbook Committee may approve the substitution of a later edition in lieu of the textbook originally selected. The publisher shall stipulate in the contract that the price for which the textbook is to be furnished will be the lowest at which the same textbook will be sold or offered for sale for the purpose of securing a state or local selection or adoption elsewhere in the United States during the six (6) months prior to the date of the execution of the contract; that he will reduce the contract price of the textbook, if the price of the same textbook is reduced below such contract price elsewhere in the United States, and that he will file with the secretary of the Committee a sworn statement of such reduction made elsewhere; that if he prepares any supplementary or abridged or special editions of any of the textbooks, and shall sell such editions elsewhere at a lower price than that stipulated in the contract, he will file copies of any and all such editions, together with the prices thereof, with the secretary of the Committee; that he has not entered into any understanding, agreement or combination to control the prices or restrict competition in the sale of textbooks; that he will furnish the textbooks to the State of Oklahoma during the term of the contract in such amounts as may be required, and that he will furnish for a like period in lieu of the corresponding textbooks under contract any other books listed in any annual statement subsequently filed by him during the term of the contract to any

school district at the lowest new prices contained in such statement, and that he will maintain said prices uniformly through the state.

B. Textbooks that have been ~~selected~~ evaluated by the State Textbook Committee may be purchased at the prices for which contracts have been awarded, pending the effective dates of the contracts, if the State Board of Education determines that any school district or districts will be at an educational disadvantage by waiting until the effective dates of the contracts to get needed textbooks.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 16-107, is amended to read as follows:

Section 16-107. A. In the event that a publisher whose bid has been accepted shall publish at any time before the expiration of the ~~adoption~~ evaluation period a new or revised edition of the ~~adopted~~ evaluated textbook, the State Textbook Committee may require such publisher to substitute such new or revised edition for the ~~adopted~~ evaluated edition at a price to be mutually agreed upon by the publisher and the State Textbook Committee, but not in excess of the lowest price at which the same textbook will be sold or offered for sale for the purpose of securing a state or local selection or adoption elsewhere in the United States during the twelve (12) months preceding the date of submitting such new or revised edition. A contract shall be made for such new or revised edition as for any other selection. Each bidder shall expressly agree to this provision as a part of his bid and the contract awarded if successful.

B. In the event that a publisher shall publish a textbook for a subject during the period for which ~~adoptions~~ evaluations for that subject have not expired such publisher may submit a bid for such textbook at the time and in the manner other bids are submitted. ~~If fewer than seven textbooks for such subject have been adopted, then~~

~~the~~ The State Textbook Committee may ~~adopt~~ evaluate such book for the balance of the ~~adoption~~ evaluation period and thereafter local textbook committees may adopt such book.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 16-110, is amended to read as follows:

Section 16-110. As soon as any contract shall have been entered into for the furnishing of textbooks for use in the public schools of the state, the secretary of the State Textbook Committee shall send a list of the textbooks ~~selected~~ evaluated by the State Textbook Committee to every county superintendent of schools, district superintendent of schools and local textbook committee in the state, which list shall show the respective prices of such textbooks, along with the Textbook Committee's evaluation and rating of each textbook, and contain such other information as the secretary shall deem advisable, and ~~he~~ the secretary shall annually publish and distribute a list of all textbooks that have been ~~selected and that are then in force~~ evaluated.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 16-111, is amended to read as follows:

Section 16-111. A. The superintendent of schools of each independent school district shall appoint a local textbook committee consisting of not fewer than three nor more than nine members. Each committee shall have one lay member, with the remainder of the members being teachers employed in the public schools of the district, a majority of whom shall be classroom teachers. The superintendent of schools or a designee who shall be a principal or a curriculum specialist shall serve as chairman of such local textbook committee.

B. The county superintendent of schools or acting county superintendent of schools of each county shall upon receipt of a request in writing from the school boards of a majority of the elementary school districts in the county appoint a local textbook

committee to serve the elementary school districts in the county. Such local textbook committee shall consist of not fewer than three nor more than nine members. Each committee shall have one lay member, with the remainder of the members being teachers employed in the elementary school districts of the county, a majority of whom shall be classroom teachers. The county superintendent of schools shall serve as chairman of such local textbook committee.

C. The publisher of a textbook ~~selected~~ evaluated by the State Textbook Committee shall deposit with the publisher's Oklahoma depository sufficient copies of each approved textbook so that each local textbook committee may examine any or all ~~new adoptions~~ evaluated textbooks. Upon receiving a written request therefor from a local textbook committee, the State Board of Education shall instruct the proper depository to furnish to the local textbook committee a reasonable number of examination copies of each textbook ~~selected~~ evaluated by the State Textbook Committee, in the subjects taught or to be taught in schools under their jurisdiction. The cost of each advanced copy shall be charged against the value of textbooks allowed any school district retaining or using the same; provided, that any such advance copy in new condition may be returned to the control of the publisher's Oklahoma depository, within five (5) months after receipt thereof, if there is no longer a need therefor, for credit of the value previously charged against said district. The publisher may, at his discretion, upon the written request of any duly appointed local textbook committee, furnish to such local textbook committee examination copies of such textbook, the teacher edition of such textbook, if one is published, and any teaching aids used with such textbook, free of charge.

D. On or before a date to be fixed by the State Board of Education, each local textbook committee shall adopt textbooks from the multiple list ~~selected~~ prepared by the State Textbook Committee in such manner as shall be prescribed by the State Board of

Education. Each local textbook committee shall serve without compensation and shall cease to exist when local adoptions have been completed and shall be replaced by another local textbook committee appointed in the same manner as herein provided.

E. On or before a date to be fixed by the State Board of Education, the superintendent of schools of each independent school district and the county superintendent of schools of each county shall submit to the State Board of Education a requisition for all of the textbooks adopted by the local textbook committee that will be needed for the ensuing year in the school or schools for which such adoptions were made, and immediately upon receipt of such requisitions it shall be the duty of the State Board of Education to make requisitions on the proper depository or depositories for such textbooks. Provided, that the State Board of Education may, for good cause, permit supplemental requisitions to be submitted, and may fill such requisitions after the date specified. Any local adopting unit may requisition any textbooks placed on the official multiple textbook list, if such requisition does not exceed the allocation for each school district as provided herein.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 16-111.1, is amended to read as follows:

Section 16-111.1 Satisfactory proof that a school district has issued to every child in said school district a complete set of ~~currently adopted~~ basic textbooks for his grade, as ~~established by the State Department of Education~~ adopted by the local textbook committee from the multiple list prepared by the State Textbook Committee, for his personal use, shall constitute compliance with Section 16-121 of Title 70~~7~~ of the Oklahoma Statutes. The State Board of Education may authorize a school district, for the purpose of instruction, to select and use and to purchase not to exceed twenty percent (20%) of state textbook monies for supplementary textbooks and other instructional materials other than those

~~selected~~ evaluated and listed by the State Textbook Committee; provided, however, that such supplementary textbooks and other instructional materials shall be approved by the State Department of Education. ~~Textbooks which have previously been rejected for state adoption by the State Textbook Committee shall not be approved for purchase under this section unless subsequently approved by the State Textbook Committee.~~ For the purpose of purchasing such supplementary textbooks and other instructional materials, the State Superintendent of Public Instruction shall make available to each school district requesting to use a portion of their allocated textbook funds in this manner, the amount of money approved for such purposes by the State Board of Education. These funds are to be deposited with the treasurer of such district and accounted for in the same manner as other public school monies. The State Superintendent of Public Instruction shall require each such school district to submit to him a complete accounting of all such supplemental textbooks and other instructional materials purchased with state textbook funds, together with the vendor and unit price of each item. Use of these funds for any purpose other than the purchase of supplemental textbooks and other instructional materials shall subject that school district to the withholding of future textbook allocations in an amount equal to the sum of the previously misused allocations.

SECTION 9. AMENDATORY 70 O.S. 1991, Section 16-119, is amended to read as follows:

Section 16-119. All advance or sample copies of textbooks or any edition thereof furnished to any member of the State Textbook Committee, or to any individual for the purpose of obtaining a ~~selection~~ an evaluation of the textbook by the State Textbook Committee, shall not be sold by the recipient thereof, but shall be disposed of as may be prescribed by the rules ~~and regulations~~ of the State Board of Education. Any advance or sample textbook or any

edition thereof furnished to a member of a local textbook committee, or to any school official or individual for the purpose of obtaining a local adoption of the textbook, may be retained for the use of the school district involved, or returned for credit if the cost of such book was charged against the value of textbooks allowed such school district. All publishers having contracts to furnish textbooks to the State of Oklahoma shall be required to file with the State Board of Education, not later than the first day of January and the first day of July of each year following the dates of their respective contracts, a sworn statement showing the names and addresses of all persons to whom they have furnished, during the preceding six (6) months, any advance or sample copies of such textbooks, or any edition thereof, together with the numbers and titles of such textbooks furnished to each such recipient, and a failure to do so, or to give accurate and complete information concerning the same, shall authorize the State Board of Education to cancel the contract of such publisher.

SECTION 10. This act shall become effective July 1, 1992.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-1723

SB