

SHORT TITLE: Schools and textbook purchasing requirements;
effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 245

By: Rubottom

AS INTRODUCED

An Act relating to schools and textbook purchase requirements; amending 70 O.S. 1991, Sections 16-101, as last amended by Section 1, Chapter 229, O.S.L. 1993, 16-102, 16-102.1, 16-103 and 16-104, as amended by Sections 3, 4, 5 and 6, Chapter 229, O.S.L. 1993, 16-106, as last amended by Section 1, Chapter 74, O.S.L. 1994, 16-107, as amended by Section 8, Chapter 229, O.S.L. 1993, 16-110 and 16-111, as last amended by Sections 9 and 10, Chapter 360, O.S.L. 1993, 16-113, as amended by Section 13, Chapter 229, O.S.L. 1993, 16-114, and Sections 16-122 and 16-123, as last amended by Sections 12 and 13, Chapter 360, O.S.L. 1993 (70 O.S. Supp. 1994, Sections 16-101, 16-102, 16-102.1, 16-103, 16-104, 16-106, 16-107, 16-110, 16-111, 16-113, 16-122 and 16-123), which relate to the State Textbook Committee; modifying procedures for the selection of the textbooks; stating public hearings on proposed textbooks; relating to the advertisement and sealed bids of textbooks; deleting the adoption of textbooks by the Textbook Committee; specifying publishers contracts; clarifying revised editions relating to list of selected textbooks; defining local textbook committees; modifying how textbooks are to be paid for; defining textbook allocation distribution to each district; setting punishment

for offering bribes; setting punishment for soliciting or receiving bribes; repealing 70 O.S. 1991, Section 16-111.1, as amended by Section 12, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-111.1), which relates to funding of supplemental textbooks and materials; and providing an effective date.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 16-101, as last amended by Section 1, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-101), is amended to read as follows:

Section 16-101. There is hereby created the State Textbook Committee, which shall be composed of two members from each congressional district, appointed by the Governor with the advice and consent of the Senate and one member, appointed by the Governor with the advice and consent of the Senate, who shall be a lay citizen not having a teaching certificate and having at least one child in the public schools of Oklahoma. A majority of the twelve members appointed from the congressional districts shall be classroom teachers. The regular terms of all members shall be for three (3) years. ~~No member~~ Members shall not be eligible to succeed ~~himself themselves~~. At no time shall more than one member of the State Textbook Committee be an employee of the same school district. Each member appointed from a congressional district shall have had not less than five (5) years' teaching or supervisory experience in the public schools of Oklahoma at the time of appointment, and shall be actively employed in the public schools of Oklahoma during the term of service on said Committee. The State Superintendent of

Public Instruction or a designated member of the staff shall serve as Secretary of the Committee and vote only when there is a tie vote in the membership of the Committee. Each member shall receive necessary traveling expenses while ~~in the performance of his~~ performing duties pursuant to the State Travel Reimbursement Act.

The Committee may meet at the call of the State Superintendent of Public Instruction at the State Capitol and elect by secret written ballot a chairperson and vice-chairperson from its membership to serve for the year. The terms for which new members from the congressional districts are appointed shall be staggered by the Governor in making appointments. The terms of four members shall expire each year. The four new members appointed each year shall be certified in one of the curriculum areas in which the textbooks will be ~~adopted~~ recommended to local textbook committees that ensuing fiscal year.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 16-102, as amended by Section 3, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-102), is amended to read as follows:

Section 16-102. A. The State Textbook Committee shall meet at the call of the chairperson 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 chairperson at the State Capitol and ~~select~~ recommend to local textbook committees textbooks for subjects taught in the public schools of the state up to and including the twelfth grade, which ~~selections~~ recommendations shall be for not more than six (6) years for every textbook.

B. ~~From the effective date of this act until December 31, 1993, the Committee may extend by up to two (2) years the five-year adoption period of those textbooks currently on the state adopted list, or provide for an interim adoption period of not to exceed three (3) years for textbooks for certain subjects, for the purpose~~

~~of correlation with a six-year adoption cycle or for restructure of the adoption cycle of subjects.~~ "Textbooks", as used in Sections 16-101 through 16-124 of this title, means instructional materials that are designed for use by pupils as a learning resource. Instructional materials may be printed or nonprinted and may include textbooks, technology-based and other educational materials. Technology-based materials do not include the equipment required to make use of those materials.

C. Said Committee shall ~~select~~ recommend textbooks or series of textbooks for each subject, which are in its judgment satisfactory. 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 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~~ recommend one or more textbooks in that subject area for the remainder of the ~~adoption~~ recommendation period.

~~D. Five or more district boards of education may petition the State Board of Education to add a book or series of textbooks to the approved list selected by the State Textbook Committee.~~

~~The State Board of Education shall promulgate rules to implement the method and time frame for handling such petitions in the most expeditious manner.~~

SECTION 3. AMENDATORY 70 O.S. 1991, Section 16-102.1, as amended by Section 4, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-102.1), is amended to read as follows:

Section 16-102.1 The State Textbook Committee shall conduct a public hearing in the first two (2) weeks of October each year for

the purpose of gathering public testimony concerning the various textbooks being considered for ~~adoption~~ recommendation by the Committee. Any person wishing to be heard at the public hearing shall register with the secretary of the State Textbook Committee at least two (2) weeks prior to the date set for the public hearing. The registration shall be accompanied by a typed summary detailing the nature of the testimony which will be presented at the public hearing. All testimony shall pertain to a specific textbook or textbooks for which the State Textbook Committee has received bids. The time and number of people testifying for any one organization may be limited by the State Textbook Committee. The Committee, in its discretion, may conduct additional public hearings. The date of the public hearing shall be set by the Committee when the advertisement for bids for books is issued.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 16-103, as amended by Section 5, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, 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. 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. 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 the member 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. ~~Only materials approved by the State Textbook Committee shall be purchased from State Textbook Funds.~~

SECTION 5. AMENDATORY 70 O.S. 1991, Section 16-104, as amended by Section 6, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, 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 the

secretary to the Committee for the purpose of considering the bids. The Committee shall meet prior to August 15 of each year at the time and place mentioned in the advertisement, to 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 may use regular classroom teachers as consultants. The books shall be selected after careful consideration of all the books presented, and the books selected for ~~adoption~~ recommendation 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. The Committee shall proceed without delay to ~~select~~ recommend, for use of the public schools of this state, textbooks as 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~~ recommend the book on a provisional basis. Final ~~adoption~~ recommendation 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.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 16-106, as last amended by Section 1, Chapter 74, O.S.L. 1994 (70 O.S. Supp. 1994, Section 16-106), is amended to read as follows:

Section 16-106. A. All contracts with publishers shall be signed by the chairperson 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~~ recommended. The publisher shall stipulate in the contract that:

1. 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;

2. It 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 it will file with the secretary of the Committee a sworn statement of such reduction made elsewhere;

3. If it 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, it will file copies of any and all such editions, together with the prices thereof, with the secretary of the Committee;

4. It has not entered into any understanding, agreement or combination to control the prices or restrict competition in the sale of textbooks;

5. It will furnish the textbooks to the State of Oklahoma during the term of the contract in such amounts as may be required; and

6. It 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 it during the term of the contract to any school district at the lowest new prices contained in such statement, and that it will maintain said prices uniformly through the state.

B. Textbooks ~~selected~~ recommended by the State Textbook Committee may be purchased by school districts at the prices for which contracts have been awarded, pending the effective dates of the contracts.

C. The chairperson and secretary of the State Textbook Committee, on the advice and consent of the attorney for the State Department of Education, may, with the consent of the holders of state textbook contracts, change any contract to conform with the provisions of Section 16-102 of this title.

D. As requested by a school district, all publishers who enter into contracts with the State Textbook Committee shall be required to furnish the Committee with computer diskettes for literary subjects in the American Standard Code for Information Interchange (ASCII) from which Braille versions of the textbook can be produced. The publisher shall furnish the Committee with computer diskettes in ASCII for nonliterary subjects when Braille specialty code translation software is available.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 16-107, as amended by Section 8, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, 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 period a new or revised edition of the adopted textbook, the State Textbook Committee may require such publisher to substitute such new or revised edition for the ~~adopted~~ recommended 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 the 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~~ recommendations 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. The State Textbook Committee may ~~adopt~~ recommend such book for the balance of the ~~adoption~~ recommendation period and thereafter local textbook committees may adopt such book.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 16-110, as last amended by Section 9, Chapter 360, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-110), is amended to read as follows:

Section 16-110. As soon as any contract is 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~~ recommended by the State Textbook Committee to every superintendent of schools and local textbook committee in the state, which list shall show the respective prices of such textbooks and contain such other information as the secretary shall deem advisable. The secretary shall annually publish and distribute a list of all textbooks that have been ~~selected~~ recommended and that are then in force.

SECTION 9. AMENDATORY 70 O.S. 1991, Section 16-111, as last amended by Section 10, Chapter 360, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-111), is amended to read as follows:

Section 16-111. A. The superintendent of schools of each school district in the state 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 chairperson of such local textbook committee.

B. Upon the written request of any duly appointed local textbook coordinator, the publisher of a textbook ~~selected~~ recommended by the State Textbook Committee shall furnish at least one examination copy of the textbook and the teacher edition of the textbook, if one is published, and a copy of software for purposes of complete demonstration and review, if available, to the school district so that the local textbook committee may examine any or all new ~~adoptions~~ recommendations in the subjects taught or to be taught in schools in the district.

~~C. 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 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.

D. On or before a date to be fixed by the State Board of Education, the superintendent of each school district 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. Any superintendent of a school district 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 in Section 16-114 of this title.

SECTION 10. AMENDATORY 70 O.S. 1991, Section 16-113, as amended by Section 13, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-113), is amended to read as follows:

~~Section 16-113. A. All textbooks shall be requisitioned, and no money allocated for the purchase of textbooks shall be sent directly to a school district. The cost of textbooks to be distributed to the several districts of the state shall be paid from funds appropriated for such purposes upon claims approved by the State Board of Education. The price to be paid shall be that stipulated in the contract with the publisher. Upon receipt of a proper requisition for textbooks, the State Board of Education shall issue purchase orders for books to the Oklahoma depository of the publisher of the books and shall cause the textbooks requisitioned to be delivered to the school district. The amount requisitioned shall not exceed the total of the allocation of the school district as provided in Section 16-114 of this title.~~

~~B.~~ The State Board of Education shall provide sufficient office space, equipment, records and supplies necessary for a proper performance of the duties and functions vested in it and the State Textbook Committee, and the State Board of Education shall appoint and fix the compensation and duties of necessary personnel to assist the State Board of Education in performing its said duties and functions.

~~C.~~ B. The State Board of Education may provide a repair service for printed textbooks distributed to school districts. The State Board of Education shall prescribe rules for the repair of textbooks and for the distribution of repaired textbooks. Nothing herein shall require the State Board of Education to repair textbooks which in its judgment cannot be economically reconditioned.

SECTION 11. AMENDATORY 70 O.S. 1991, Section 16-114, is amended to read as follows:

Section 16-114. Based upon legislative appropriations, the State Board of Education shall determine the textbook allocation to be distributed to each school district in the state. Textbook allocations shall be made at the time of the first state aid payment pursuant to Section 18-200 of this title. Except as otherwise provided for in this section, the amount allowed each school district shall be based on the legal average daily attendance of the school district for the second preceding school year as certified by the State Board of Education multiplied by Twenty-five Dollars (\$25.00). For any school district with an increase in membership pursuant to the provisions of subsection C of Section 18-200 of this title, the allocation shall be based upon an average daily attendance which is equivalent to the membership as determined pursuant to the provisions of subsection C of Section 18-200 of this title. Provided, that any unused portion of the value of textbooks allowed to a school district shall be cumulative and shall be allowed to such school district the following fiscal year, in addition to the allocation it is entitled to receive during such fiscal year. When it is determined by the State Board of Education that a surplus of textbooks exists in any school district in the state, the State Board of Education shall have the authority to transfer any or all surplus textbooks to another district or districts where the same are needed. Provided, further, that all textbooks distributed to a school district that have been destroyed by fire or other hazard shall be replaced by the State Board of Education. The total cost of all additional textbooks delivered to school districts to replace those destroyed by fire or other hazard shall not exceed, for the entire state in any fiscal year, the aggregate sum of One Hundred Thousand Dollars (\$100,000.00), which sum shall be reserved for such purpose from any appropriation made to carry out the provision of this article for any fiscal year.

SECTION 12. AMENDATORY 70 O.S. 1991, Section 16-122, as last amended by Section 12, Chapter 360, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-122), is amended to read as follows:

Section 16-122. Any person who directly or indirectly promises or offers to give, or causes to be promised, offered or given, any money, books, bribe, present or reward or any valuable thing whatsoever to any member of the State Board of Education, the State Textbook Committee, or a local textbook committee, or any member of a board of education, teacher or other person with the intent to influence a decision on any question, matter, cause or proceeding in the ~~selection~~ recommendation, or adoption of any textbooks, or series of textbooks, upon conviction, shall be guilty of a felony and punishable as such. Any teacher in the public schools of Oklahoma, any superintendent of a school district or any employee of a school district who shall in any way be interested in the profits, proceeds or sale of any school textbook used in the public schools under such person's charge, or with which such person is connected in any official capacity, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00), and shall in addition thereto forfeit the office or position.

SECTION 13. AMENDATORY 70 O.S. 1991, Section 16-123, as last amended by Section 13, Chapter 360, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-123), is amended to read as follows:

Section 16-123. Any member of the State Board of Education and any member of the State Textbook Committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent, and which will have the effect, to influence a decision on any question, matter, cause or proceeding in the ~~selection or adoption~~ recommendation of any textbook or series of textbooks

provided for in this article, upon conviction, shall be guilty of a felony and punishable as such.

Any superintendent of schools, any member of a board of education, and any member of a local textbook committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent and which will have the effect to influence a decision on any question, matter, cause or proceeding in the ~~selection or adoption~~ recommendation of any textbook or series of textbooks, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a term of not to exceed six (6) months, or both such fine and imprisonment.

SECTION 14. REPEALER 70 O.S. 1991, Section 16-111.1, as amended by Section 12, Chapter 229, O.S.L. 1993 (70 O.S. Supp. 1994, Section 16-111.1), is hereby repealed.

SECTION 15. This act shall become effective July 1, 1996.

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