

Legislative Session: 81(R)**House Bill 2488**
Effective: 9-1-09**House Author:** Hochberg
Senate Sponsor: Ogden

House Bill 2488 amends the Education Code to require each school district and open-enrollment charter school to certify annually to the State Board of Education (SBOE) and the commissioner of education that, for each subject in the required curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level.

The bill provides for the adoption of open-source textbooks and establishes criteria and conditions under which the SBOE is required to place an open-source textbook submitted for adoption by an eligible institution of higher education on a conforming or nonconforming list. The bill exempts an open-source textbook from the requirement that the SBOE execute a contract for the purchase of each adopted textbook and the purchase or licensing of each adopted electronic textbook and instead authorizes the SBOE to execute a contract for the printing of an open-source textbook listed on the conforming or nonconforming list, which contract must allow a school district to requisition printed copies of an open-source textbook as provided by law.

The bill sets forth provisions for the purchase of state-developed open-source textbooks, requiring the commissioner to purchase such textbooks through a competitive bidding process; authorizing the purchase of more than one such textbook for a subject or grade level; requiring such textbooks to be irrevocably owned by or licensed to the state; requiring an unlimited state authority to modify, delete, combine, or add content to the textbook after purchase; authorizing the commissioner to issue a request for proposals for such a textbook at any time the commissioner determines that a need exists for additional textbook options; and requiring the costs of administering the purchase of state-developed open-source textbooks to be paid from the state textbook fund. The bill also sets forth content requirements for state-developed open-source textbooks, requiring such textbooks to be evaluated by teachers or other experts, as determined by the commissioner, before purchase and to meet requirements for inclusion on a conforming or nonconforming textbook list, and requiring revision of such a textbook following a curriculum revision or at any time as the commissioner may require, for which revisions the commissioner must use a competitive process to request proposals.

The bill requires the commissioner to determine the cost to a school district or open-enrollment charter school for a state-developed open-source textbook in an amount sufficient to cover state expenses associated with the textbook, including expenses incurred by the state in soliciting, evaluating, revising, and purchasing the textbook. If a school district or open-enrollment charter school selects a state-developed open-source textbook instead of another textbook, the bill provides for the allocation of the difference between the cost determined by the commissioner and the maximum price for a textbook in the same subject area, as determined by the SBOE. The bill authorizes a school district or open-enrollment charter school to adopt a state-developed open-source textbook at any time, regardless of the textbook review and adoption cycle.

The bill requires the commissioner to provide for the distribution of state-developed open-source textbooks in a manner consistent with distribution of textbooks, authorizes the commissioner to use a competitive process to contract for printing or other reproduction of such textbook on behalf of a school district or open-enrollment charter school, and prohibits the commissioner from requiring a school district or open-enrollment charter school to contract with a state-approved provider for such printing or reproduction.

The bill provides that a state-developed open-source textbook is state property and requires the commissioner to provide a license to each public school in the state, and certain other entities educating students in any grade from prekindergarten through high school, to use and reproduce such a textbook and requires the commissioner, in determining the cost of licensing an entity not otherwise listed, to seek to recover the costs of developing, revising, and distributing such textbooks. A decision by the commissioner regarding the purchase, revision, cost, or distribution of a state-developed open-source textbook is final and may not be appealed.

The bill requires the commissioner to develop a schedule for the adoption of state-developed open-source textbooks and, in developing the schedule, to consider the availability of funds and textbooks for development or purchase by the state. The bill requires a school district or open-enrollment charter school that selects an open-source textbook to requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the district or school provides to each student electronic access to the textbook at

no cost to the student, or printed copies of the portion of the textbook that will be used in the course. The bill authorizes the commissioner to establish a list of equipment or devices that a school district or open-enrollment charter school may purchase using textbook credits or textbook credits in combination with other available funds to provide such electronic access.

The bill exempts open-source textbooks from the requirement for a textbook publisher or manufacturer to maintain a depository in Texas or to keep a depository in Texas to receive and fill orders for textbooks. The bill requires a publisher or manufacturer to deliver open-source textbooks to a school district or open-enrollment charter school without a delivery charge to the school district, open-enrollment charter school, or state.