



Sub. H.B. 32

123rd General Assembly
(As Passed by the General Assembly)

Reps. Jolivette, Haines, Harris, Householder, Grendell, Mottley, Olman, Schuler, Stapleton, Terwilleger, Jones, Patton, Winkler, Callender, Padgett, O'Brien, Mead, Vesper, Krebs, Perz, Goodman, Metzger, Jordan, Corbin, Sykes, Willamowski, Thomas, Myers, Amstutz, Coughlin, Barnes

Sens. Gardner, Kearns, Nein, Hottinger, Mumper, Armbruster, Watts, Spada, Drake, Prentiss

Effective date: *

ACT SUMMARY

- Permits a school district to furnish, in lieu of textbooks, electronic textbooks--such as computer software, CD-ROM, computer courseware, and on-line services--to students attending the public schools in the district, if the software is furnished free of charge.
- Requires a school district that furnishes electronic textbooks to make them reasonably accessible to teachers providing assignments and to students for completion of assignments.
- Requires that electronic textbooks be selected, acquired, and maintained by school districts as are textbooks, except that electronic textbooks may be updated more frequently than once every four years.
- Expands the secular items that school districts may buy with state Auxiliary Services funds and lend to chartered nonpublic school students to include electronic textbooks, consumable textbooks, site-licensed software, digital video on demand ("DVD"), wide area internet access

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

technology, school library materials, resources and services of the Ohio SchoolNet Commission, and other instructional materials.

- Makes technical changes in the calculation of school district "gap revenue."
- Requires the emergency loan interest subsidy payments for school districts to be paid for the current fiscal year (beginning with FY 1999), instead of for the preceding calendar year.
- Declares an emergency.

CONTENT AND OPERATION

Electronic textbooks in public schools

(secs. 3329.01 and 3329.03 to 3329.10)

Continuing law on traditional textbooks

Under continuing law, the board of education of a school district must furnish necessary textbooks free of charge to pupils attending the public schools in that district. Textbooks furnished to students remain the property of the district board; they are loaned to the pupils on such terms as the board may determine. Upon the request of a pupil or parent, a board of education must sell to the pupil or parent any textbook adopted for use in the schools of the district. The price may not exceed 110% of the cost paid by the board. (Secs. 3329.06 and 3329.09.)

Also, continuing law requires a school district to make all necessary arrangements to place books (presumably this includes textbooks) within easy reach of and accessible to all the pupils in the district (sec. 3329.09).

The law requires a city, exempted village, or local school district board to determine which textbooks, and the number of each textbook, that are to be used in the schools under its control (secs. 3329.07 and 3329.08).¹ No textbook may be purchased unless the publisher has on file in the office of the state Superintendent of Public Instruction, a statement that the list wholesale price to Ohio school districts does not exceed the lowest list wholesale price available to districts in any

¹ A local school district must choose from a list of textbooks adopted by the educational service center where the district is located. City and exempted village districts are not so restricted.

other state (sec. 3329.01).² Once a textbook is selected by a board of education, another textbook cannot be substituted for it for four years, unless four-fifths of the board members approve of the substitution (sec. 3329.08). Finally, a superintendent, supervisor, principal, or teacher employed by any board of education cannot act as a sales agent for a person, firm, or corporation whose textbooks are filed with the state Superintendent (sec. 3329.10).

The act's provisions for electronic textbooks

Under the act, a city, exempted village, or local school district board may furnish *electronic* textbooks, in lieu of textbooks, to pupils attending the public schools in the district, provided the electronic textbooks are also furnished free of charge (sec. 3329.06). "Electronic textbook" is defined as computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, on-line service, electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means (sec. 3329.01). A school district that furnishes electronic textbooks to pupils must provide reasonable access to them and other necessary computer equipment to pupils who are required to complete homework assignments utilizing electronic textbooks, and to the teachers providing those homework assignments (sec. 3329.06).

Electronic textbooks must be selected, acquired, and maintained by the school district in the same manner as textbooks (described above under "**Continuing law on traditional textbooks**"). In particular, the requirement to sell textbooks to pupils or their parents at no more than 110% of the cost of the book to the school district also applies to electronic textbooks (sec. 3329.09). The act stipulates that the word "pupil" for purposes of this pricing requirement includes any school-aged child who resides in the school district (sec. 3329.09).

Unlike continuing textbook law, however, the act permits school districts to perform periodic and normal updating of electronic textbooks more often than once every four years. But it appears that if a school board has recently selected and acquired a textbook in a given subject, it must wait four years to select electronic textbooks as a substitute, unless four-fifths of the board members approve of the substitution (sec. 3329.08).

² A textbook publisher also must file a statement of the wholesale price of a computer diskette that contains the text of the textbook for translation into Braille and that the list wholesale price for any specified number of computer diskettes does not exceed the list wholesale price for the same number of the printed textbook (sec. 3329.01(A) and (B)).

Expanded uses of state Auxiliary Services funds for chartered nonpublic school students

(sec. 3317.06)

Continuing law

Continuing law requires the Department of Education to annually pay each school district funds that the school district must use to purchase various secular items and services for the benefit of students attending chartered nonpublic schools.³ Each district must use the money for the following:

(1) To purchase and lend to chartered nonpublic school students secular textbooks approved by the state Superintendent of Public Instruction for use in the public schools;

(2) To provide those students with various health, counseling, and remedial services, and instructional equipment to use as part of these services;

(3) To provide programs for disabled students;

(4) To purchase mobile units that are used for the provision of the health, counseling, remedial, and disability services;

(5) To supply the students with standardized tests and scoring services; and

(6) To purchase and lend to them computer software, prerecorded video materials, and math and science equipment and materials, all of which must be (a) secular, neutral, and nonideological, (b) in general use in the state's public schools, (c) incapable of diversion to religious use, (d) susceptible of loan to individual students, and (e) furnished for the use of individual students.

Changes made by the act

The act expands the items that school districts may purchase with state Auxiliary Services funds to lend to students of chartered nonpublic schools.

The act requires districts to purchase and lend secular electronic textbooks, consumable textbooks (presumably workbooks), and text supplements. As under continuing law for traditional textbooks, these electronic textbooks, consumable textbooks, and text supplements lent to chartered nonpublic school students must

³ *Sec. 3317.024(O), not in the act. It is section 3317.024(O) that limits the use of Auxiliary Services funds to benefit students of chartered nonpublic schools.*

have been approved by the state Superintendent of Public Instruction for use in the state's public schools. The electronic textbooks to be supplied include all the same items the act permits districts to provide to public school students in lieu of regular textbooks, plus local and remote computer assisted instruction. (Sec. 3317.06(A).)

The act also specifies that computer software purchased for loan to chartered nonpublic school students may include site licensing. (Sec. 3317.06(K).) Site licensing allows the software licensee (the school district) to grant multiple users access to it at one site, in this case a nonpublic school.

The act adds all of the following to the list of nontextbook items that are to be purchased and lent as long as they are secular, in general use in the public schools, incapable of diversion to religious use, susceptible of loan to individual students, and furnished for use of individual students:

- (1) Digital video on demand ("DVD");
- (2) Wide area connectivity and related technology as it relates to internet access;
- (3) School library materials; and
- (4) Instructional materials, which the act defines as learning materials that are secular, neutral, and nonideological in character and are of benefit to the instruction of school children, including educational resources and services developed by the Ohio SchoolNet Commission. (Sec. 3317.06(K).)

Other provisions in the act

Emergency school loans--interest subsidy

(sec. 3313.484; Section 3)

Continuing law requires the Department of Education, by the last day of June of each year, to pay a subsidy to every school district that during the preceding calendar year paid and was obligated to pay interest on a state-backed emergency school loan in excess of 2% simple interest.⁴ The act changes the year for calculating the subsidy to the current fiscal year. The subsidy amount remains the difference between the amount of interest the district paid and was obligated to

⁴ *Sub. H.B. 412 of the 122nd General Assembly prohibited the approval of any state-backed emergency school loans after March 1, 1998 (secs. 3313.483 through 3313.4811, not in the act). The loans were among the provisions of law held unconstitutional in the DeRolph decision.*

pay during the year and the interest that the district would have been obligated to pay if the interest rate on the loan had been 2% per year.

The act specifically states that the first subsidy under this provision will be paid in June of 1999 for the fiscal year ending June 30, 1999.

Removal of JVSD taxes in determining a school district's "gap revenue aid"

(secs. 3317.021 and 3317.0216)

Am. Sub. H.B. 650 provided a state subsidy (called the "gap revenue subsidy") for any school district that does not raise enough local operating revenue to cover the local share of education spending that the state attributes to it in the base cost formula and as its "local share of special education and related services additional weighted costs." In that act, the calculation of district local operating revenues inadvertently included the share of the district's taxes that actually were levied to support a joint vocational school district (JVSD). The act requires the Tax Commissioner to report (and the Department of Education to remove from its calculation of the district's "gap revenue subsidy") that portion of the district's taxes attributable to a JVSD.

The act also requires the Department to include in the calculation of a district's local operating revenue, any school district income taxes actually distributed for the preceding year, rather than the school district income tax liability for that year.

COMMENT

The current Auxiliary Services Law (*not changed by the act*) requires that all educational materials paid for with state funds be:

- for the benefit of the students and not the nonpublic school that the students attend;
- loaned to students and not given to them;
- incapable of diversion to religious use.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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Introduced	01-20-99	p.	90
Reported, H. Education	02-17-99	p.	210
Passed House (97-0)	03-10-99	pp.	279-280
Reported, S. Education	04-21-99	pp.	328-329
Passed Senate (32-0)	04-21-99	pp.	330-331
House concurred in Senate amendments (95-0)	04-27-99	pp.	464-466

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