



H.B. 768

123rd General Assembly
(As Passed by the House)

Reps. Gardner, Tiberi, Buchy, Peterson, Goodman, Willamowski, Corbin, Jordan, Netzley, Van Vyven, Young, DePiero, Calvert, Robinson, Jerse, Hartnett, Evans, Carey, Schuler, Krupinski, Olman, Jacobson, Luebbers, Mead, Jolivette, D. Miller, Buehrer, Logan, Schuck, Williams, Kilbane, Coughlin, Trakas, Perry, Mettler, Allen, Taylor, Terwilleger, Salerno, Bender, Clancy, Barrett, Cates, O'Brien, Vesper, Sullivan, Roberts, Callender, Schuring, Brading, Roman, Winkler, Widener, Gerberry, Flannery, Hughes, Sulzer, A. Core, Redfern, Austria, Womer Benjamin, Hoops, Aslanides, Damschroder, Boyd, Householder, Collier, Amstutz, Mottley

BILL SUMMARY

- Expands the types and permitted uses of instructional equipment, including computers, that may be purchased with state Auxiliary Services funds by a school district for use by students attending chartered nonpublic schools within the district.
- Permits state-funded auxiliary services provided to nonpublic school students to be provided through contracts with educational service centers.
- Declares an emergency.

CONTENT AND OPERATION

Background: state Auxiliary Services funds

Current law requires the Department of Education to annually pay each school district funds, known as Auxiliary Services funds, that the school district must use to purchase various secular items and services for the benefit of students attending chartered nonpublic schools within the district (sec. 3317.024(L), not in the bill). Each district may use the money only for the following (sec. 3317.06):

(1) To purchase and lend to chartered nonpublic school students secular textbooks or electronic 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 to purchase instructional equipment, including computer hardware, for use in conjunction with these services;

(3) To provide programs for disabled or gifted 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;

(6) To purchase and lend to them "instructional materials," including computer software (including site-licensing), prerecorded video laserdiscs, digital video on demand (DVD), compact discs, video cassette cartridges, wide area connectivity and affiliated technology as it relates to internet access, math or science equipment and materials, school library materials, and resources and services of the Ohio SchoolNet Commission, 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; and

(7) To hire supervisory and clerical personnel to administer the district's provision of services and materials to nonpublic school students.

The bill expands the types and permitted uses of instructional equipment purchased with Auxiliary Services funds

(sec. 3317.06(L))

Under current law, one class of items that school districts may purchase with state Auxiliary Services funds is instructional equipment, including computer hardware. The use of such computers, however, is restricted to the provision of the secular remedial, diagnostic, or therapeutic services that school districts supply to students of chartered nonpublic schools.

The bill expands this authority in several ways. First, it makes explicit that the possible equipment that may be purchased includes not only computers but also "related equipment in general use in the public schools of the state." Second, it removes entirely the restriction that the computers be used only in connection with remedial, diagnostic, or therapeutic services provided by the district to nonpublic school students. Third, in place of this restriction it stipulates that the computers

and other instructional equipment are to be loaned to the students or their parents, like current law provides for textbooks. (It also permits districts to use Auxiliary Services funds to hire clerical personnel to administer the lending program, as current law provides for textbooks.) These changes expand the range of educational purposes for which nonpublic school students may utilize computers and related instructional equipment purchased with state funds. Under the bill, for example, students could use the computers for research or classroom assignments.

The bill also specifies that, as required by current law for state-funded materials, equipment, textbooks, services, and computer software, computer *hardware* must be provided for the benefit of nonpublic school students without distinction as to the race, creed, color, or national origin of the students or their teachers (in the fifth paragraph following division (M) of sec. 3317.06).

Change in wording concerning prohibition against state-funded materials and services for religious activities

(sec. 3317.06, sixth paragraph following division (M))

Current law stipulates that no school district may provide services for use in religious courses, devotional exercises, religious training, or any other religious activity. The bill revises this provision to specify that school districts may not provide for use in religious courses, devotional exercises, religious training, or any other religious activity "services, materials, or equipment that contain religious content." However, the bill maintains current law provisions requiring textbooks and instructional materials to be secular and, in the case of instructional *materials*, such as computer *software*, to be incapable of diversion to religious use. Such a stipulation does not exist in current law or the bill for instructional *equipment* such as computer *hardware*.

Provision of auxiliary services by educational service centers

(sec. 3317.06, second paragraph following division (M))

Currently, school districts may contract with the Department of Health, city or general health districts, or properly licensed private agencies for the provision of health services that school districts may furnish to chartered nonpublic schools. The bill permits school districts to contract out for *any* of the auxiliary services provided to nonpublic schools, and adds educational service centers to the list of potential contractors.

COMMENT

On June 28, 2000, the U.S. Supreme Court upheld the federal Title VI program that provides government aid to private schools, including religious schools, in the form of computers and library books. The 6-3 decision overturned precedents from the 1970s that prohibited government provision of maps, slide projectors, and other instructional *equipment* to religious schools. In the lead opinion, a plurality of the Court argued that government aid to religious schools is constitutionally permissible if the program allocates aid on the basis of neutral, secular criteria and the aid itself lacks any religious content. The dissenting opinion maintained that the neutrality doctrine proposed by the plurality was not an adequate guarantee that government funds would not be diverted to support a school's religious mission. (*Mitchell v. Helms*, 2000 U.S. LEXIS 4485.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-31-00	p. 2214
Reported, H. Education	09-20-00	p. 2273
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