SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 560 (Substitute S-1 as passed by the Senate)
Sponsor: Senator William Sederburg
Committee: Education and Mental Health

Date Completed: 3-8-90

RATIONALE

The School Code governs the adoption, sale, or exchange of school textbooks in Michigan. Under the Code, a local school board cannot purchase or permit a textbook to be used in the district, if that textbook has not been listed with the State Board of Education. A textbook vendor is required under the Code to file with the State Board copies of all textbooks offered for sale, adoption, or exchange along with a sworn statement of the list price, lowest net wholesale price, and lowest exchange price. In addition, a textbook cannot be listed by the State Board unless the vendor enters into an annual written contract with the State Board before doing business in the State. Reportedly, this requirement was established a number of years ago to regulate the sale of textbooks, but not their content, in order to prevent vendors operating in the State from manipulating textbook prices. Some people believe that the usefulness of requiring a textbook vendor annually to enter into a contract with the State Board has diminished, especially since no complaints against vendors have been reported, and that the administrative tasks associated with this requirement should be eliminated.

CONTENT

The bill would amend the School Code to eliminate requirements that textbook vendors list copies of all textbooks offered in this State with the State Board of Education and enter into annual written contracts with the State Board; repeal the provision that prohibits a board of education or school official from purchasing, procuring by exchange, adopting, or permitting to be used in the district's schools a textbook that is not listed with the State Board; strike a provision that authorizes the State Board to cancel all of a vendor's filings if the Board determines that the vendor is selling books at a lower price elsewhere in the United States; and, repeal sanctions that are related to the implementation of the annual contracts. Textbook vendors still would have to file with the State Board or the Board's designee a copy of each textbook offered.

Further, the Act provides that textbooks offered for sale, adoption, use, or exchange in this State must be at least equal in quality to those filed with the State Board in regard to paper, binding, printing, illustrations, and subject matter. The bill would require, instead, that textbooks be at least equal in quality to those sold elsewhere in the United States.

Sections of the Code that the bill would repeal require a textbook vendor to file a $5,000 surety bond conditioned on the vendor's faithful execution of its contract with the State; require the State Board to cancel a vendor's listing if a contract or bond expires and is not renewed; and require the State Board to cancel a vendor's listing upon finding that the vendor violated its contract or bond (MCL 380.1432, 380.1433, and 380.1436).

MCL 380.1431

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

The bill would not change significantly the relationship between local and intermediate school districts and textbook vendors. Under the bill, vendors still would be required to furnish all textbooks to each local and intermediate school district at the lowest price. Furthermore, these school districts would have greater flexibility and freedom in the textbook selection process. The Code currently prohibits a board of education or school official from purchasing, procuring by exchange, and adopting or permitting to be used in the district's schools a textbook that is not listed with the State Board. The bill would eliminate this prohibition. As a result, local and intermediate school districts would not receive from the Department of Education an annual list of textbook vendors authorized to sell textbooks in the State. The discontinuance of this service should not affect the textbook selection process of the districts since school administrators and teachers would be able to explore instructional materials through professional organizations.

Supporting Argument

The School Code currently requires textbook vendors to file a $5,000 surety bond, conditioned upon the vendor's faithful execution of the terms of its annual contract with the State. Eliminating this requirement would save the Attorney General's office administrative time that now must be used for annually approving the bond required for the contract between a textbook vendor and the State Board. In addition, vendors could reduce administrative costs with the elimination of the annual contract requirement. Small textbook vendors also could be able to compete better in the textbook market if the bond requirement were eliminated.

Supporting Argument

The bill would continue the present authority of the State Board to collect school textbooks from textbook vendors. Textbooks collected so far have been used as part of a textbook selection process by educators from local and intermediate school districts, future teachers, and college professors. Central Michigan University currently is housing the State Board's textbook collection, which includes approximately 8,000 books.

Opposing Argument

The bill would delete enforcement provisions in the Code providing for liquidated damages if a textbook vendor violated the lowest price guarantee of textbooks sold in the State. The bill would loosen restrictions on textbook vendors without providing for prompt enforcement action.

Response: It is felt that the marketplace and competitiveness among textbook vendors would aid in the regulation of these vendors. Besides, there is no record of the enforcement provision's having been invoked. Furthermore, the School Code does contain penalty provisions for violations of the Code (MCL 380.1804).

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