

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1467 K-12 Education

**SPONSOR(S):** Garrison & others

**TIED BILLS:** None **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education & Employment Committee	13 Y, 7 N	Aaronson	Hassell
2) Appropriations Committee		Potvin	Pridgeon

### SUMMARY ANALYSIS

Florida's Constitution provides that each school district shall include a school board of five or more elected members that work to operate, control, and supervise public schools in the district. Currently, each member of a district school board earns a salary based on the population of the county the district school board member serves. The bill repeals the law establishing school board member compensation.

The bill increases the transparency and accountability for selecting and using instructional materials and library materials in schools by:

- requiring that certain school district instructional material review committee meetings be noticed and open to the public;
- requiring school district personnel who are involved in reviewing and selecting certain instructional materials and library materials to complete training developed by the Department of Education (DOE) on selecting quality, age-appropriate books, prior to making selections;
- requiring school districts to adopt and publicly post procedures for developing library media center collections;
- requiring each elementary school to post on its website a list of all materials maintained in the school library or required in a classroom booklist;
- requiring that each material in a school library or classroom booklist be selected by a certified educational media specialist;
- requiring school districts to provide access to all materials for public inspection as allowed by law and to publish a list of all materials available to students on the school website in a searchable format;
- requiring school districts to provide a public review process for the adoption of all materials and to select, approve, adopt, or purchase materials as a separate line item on a board meeting agenda and provide reasonable opportunity for public comment;
- beginning June 30, 2022, requiring school districts annually to submit to the Commissioner of Education a report identifying materials for which the school district received an objection for the school year and requiring the DOE to publish removed or discontinued materials as a result of an objection; and
- requiring that school principals oversee compliance with school library media center materials selection procedures.

The bill does not appear to have a fiscal impact on state government and has an indeterminate fiscal impact on local school districts. See fiscal comments, *infra*.

The bill takes effect on July 1, 2022.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### District School Board Members' Salaries

##### Present Situation

Florida's Constitution provides that each county shall constitute a school district, to include a school board composed of five or more members chosen by vote. School board duties including operating, controlling, and supervising all public schools in a school district and determining the rate of school district taxes.<sup>1</sup>

Currently, Florida law dictates a base salary for each member of a district school board. The base salary is dependent upon the population of the county the district school board member serves. In 2009, district school board members were authorized to voluntarily reduce their salary.<sup>2</sup> In 2018, the Legislature aligned district school board member salaries with the beginning teacher salary or the amount calculated by statute, or whatever is less.<sup>3</sup> The below chart establishes the salary calculation to determine school board member's salaries.<sup>4</sup>

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
II	10,000	49,999	5,833	0.020830
III	50,000	99,999	6,666	0.016680
IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

In Fiscal Year 2021-2022, elected school board member salaries ranged between \$26,965 (Liberty County) to \$47,189 (Broward, Hillsborough, Miami-Dade, Orange, and Palm Beach counties).<sup>5</sup>

The district is also authorized to reimburse travel expenses for district school board members from the district school fund. Travel outside the district that exceeds \$500 requires approval by the school board to confirm that the travel is for official business, and all travel outside of the state must include an itemized list detailing all anticipated expenses.<sup>6</sup>

##### Effect of Proposed Changes

The bill repeals s. 1001.395, Florida Statutes, removing the authority for school board members to receive a salary. School board members may still receive reimbursement for travel expenses.

#### Curriculum and Library Materials in Florida Public Schools

<sup>1</sup> Art. IX, s.4(a), Fla. Const.

<sup>2</sup> Section 1, ch. 2009-3, L.O.F.

<sup>3</sup> Section 5, ch. 2018-5, L.O.F.

<sup>4</sup> Section 1001.395(1), F.S.

<sup>5</sup> The Florida Legislature's Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2021-22* (2021), pgs. 12-13, available at <https://www.flsenate.gov/Session/Bill/2021/1461/Analyses/h1461a.SEC.PDF>.

<sup>6</sup> Section 1001.39, F.S.

## Present Situation

### *Instructional Materials Adoption*

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.<sup>7</sup> “Adequate instructional materials” are defined by law as a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for students.<sup>8</sup>

The Florida Department of Education (DOE) facilitates the instructional materials adoption process statewide through evaluation of materials submitted by publishers and manufacturers.<sup>9</sup> Expert reviewers chosen by the DOE must objectively evaluate materials based on alignment to Florida’s state-adopted standards, accuracy, and appropriateness for age and grade level.<sup>10</sup> Based on reviewer recommendations of materials that are “suitable, usable, and desirable,” the Commissioner of Education then selects and adopts instructional materials for each grade and subject under consideration.<sup>11</sup> The DOE must provide training to instructional materials reviewers on competencies for making valid, culturally sensitive, and objective recommendations prior to the reviewers beginning the review and selection process.<sup>12</sup>

After adoption, the DOE must make the final report of instructional materials available at all times for public inspection. The DOE Office of Instructional Materials announces the adoption by publicly posting the list on its website, as well as emailing district instructional materials contacts with the newly approved materials.<sup>13</sup>

School districts receive an allocation of state funds each year for instructional materials, library books, and reference books.<sup>14</sup> Unless a school district has implemented its own instructional materials review process,<sup>15</sup> at least 50 percent of the allocation of funds must be used to purchase instructional materials on the state-adopted list.<sup>16</sup> The remaining 50 percent of the annual allocation may be used for the purchase of library and reference books, nonprint materials, and the repair and renovation of materials; however, such materials are not subject to the same school-district adoption procedures as instructional materials.<sup>17</sup> Each district school board is required to maintain a list of all purchased instructional materials, by grade level, on its website.<sup>18</sup>

Prior to the purchase of any instructional material, whether from the state-adopted list or through a district-established instructional materials review process, a district school board must:

- establish a process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the required school board hearing and public meeting;

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<sup>7</sup> See s. 1006.40(2), F.S.

<sup>8</sup> Section 1006.28(1), F.S. Digital and instructional materials, including software applications, must be provided by each school board, in consultation with the district school superintendent, to students with disabilities in prekindergarten through grade 12. Section 1003.4203(2), F.S.

<sup>9</sup> Section 1006.34(1), F.S.

<sup>10</sup> Section 1006.31, F.S.

<sup>11</sup> Section 1006.34(2)(a), F.S. Generally, the commissioner adopts instructional materials according to a 5-year rotating schedule. The commissioner may approve a shorter schedule if the content area requires more frequent revision. Section 1006.36(1), F.S.

<sup>12</sup> Section 1006.29(5), F.S.

<sup>13</sup> Florida Department of Education, Instructional Materials, *Archive*, <https://www.fldoe.org/academics/standards/instructional-materials/archive/> (last visited Jan. 1, 2022). The DOE website has all adopted instructional materials lists from 2005 to present.

<sup>14</sup> See s. 1011.67, F.S.

<sup>15</sup> See s. 1006.283, F.S.

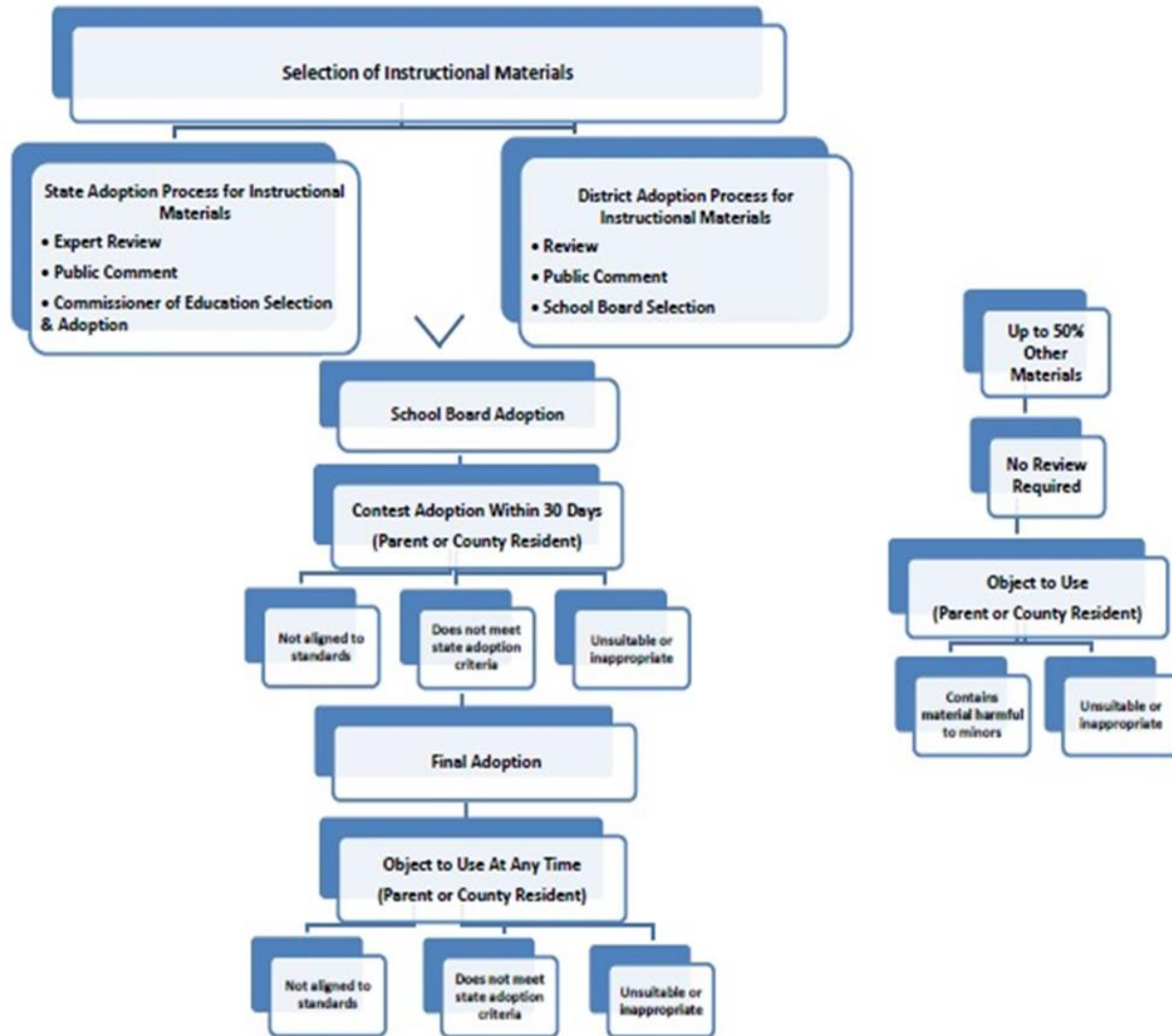
<sup>16</sup> Section 1006.34, F.S. All adopted materials are posted on the DOE Instructional Materials webpage. Florida Department of Education, *Instructional Materials*, <https://www.fldoe.org/academics/standards/instructional-materials/> (last visited January 17, 2022).

<sup>17</sup> See s. 1006.40(3)(b), F.S.

<sup>18</sup> Section 1006.28(2)(a)(1), F.S.

- conduct an open, noticed school board hearing to receive public comment on the recommended instructional materials;
- conduct an open, noticed public meeting, on another date, to approve an annual instructional materials plan to identify any instructional materials that will be purchased;
- provide notice for the school board hearing and the public meeting that specifically states the instructional materials being reviewed and how they can be accessed for public review; and
- establish a process for public comment on, and review of, the recommended instructional materials.<sup>19</sup>

The below graphic portrays the state and district level adoption of instructional materials compared to the adoption of all other materials, including library media materials.<sup>20</sup>



As part of the adoption process, some school districts convene a committee composed of teachers and other stakeholders to provide a preliminary review of instructional materials and make recommendations to the district school board for adoption.<sup>21</sup> Not all instructional materials review committee meetings are noticed and open to the public. However, in September 2021, the Second District Court of Appeal held that when a district school board delegates decision-making authority to an instructional materials review committee, any meeting in which the committee exercises the authority to

<sup>19</sup> Sections 1006.40(4)(b) and 1006.283(2)(b)8., 9., and 11., F.S.

<sup>20</sup> Florida House of Representatives, Education and Employment Committee, *Instructional Materials Fact Sheet* (2020).

<sup>21</sup> See The School District of Palm Beach County, *District Instructional Materials Guidelines for Selection Procedures*, available at [https://p14cdn4static.sharpschool.com/UserFiles/Servers/Server\\_270532/File/Students%20&%20Parents/Textbooks/Guidelines%20for%20District%20Adoptions.pdf](https://p14cdn4static.sharpschool.com/UserFiles/Servers/Server_270532/File/Students%20&%20Parents/Textbooks/Guidelines%20for%20District%20Adoptions.pdf).

rank, eliminate, or select materials for final approval by the school board must be noticed and open in accordance with the Sunshine Law.<sup>22</sup>

### *Library Media and Other Materials*

In addition to instructional materials, each district school board is responsible for the content of any other materials used in the classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program, or otherwise purchased or made available.<sup>23</sup>

The Office of Library Media Services at the DOE supports district library media supervisors to help create and maintain quality library programs and foster a love of reading and effective use of ideas and information by students and faculty.<sup>24</sup>

### *Librarians/Media Specialists*

Librarians/media specialists are defined by law as staff members responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems. They are also responsible for working with teachers and students to make resources available in instructional programs, media productions, and location and use of information resources.<sup>25</sup> Educators in Florida may become certified educational media specialists through the DOE certification process, but Florida schools are not required to employ a certified educational media specialist.

To become a certified educational media specialist in grades prekindergarten through 12, an individual must complete one of the following pathways:<sup>26</sup>

- a bachelor's degree or higher with an undergraduate or graduate major in educational media or library science; or
- a bachelor's degree or higher with thirty semester hours in educational media or library science to include credit in management of library media programs, collection development, library media resources, reference sources and services, organization of collections, and design and production of educational media.

Each school district must provide training to school librarians and media specialists regarding the prohibition against distributing harmful materials to minors, and best practices for providing students access to age-appropriate materials and library resources.<sup>27</sup>

### *Selection Processes of Library Media Materials*

The selection of instructional materials, library media, and other reading materials used in the public-school system must include consideration of the age of the students who normally could be expected to have access to the material, the educational purpose to be served by the material, the degree to which the material would be supplemented and explained by classroom programs, and the consideration of the diversity of the students in Florida.<sup>28</sup> As provided, *supra*, library media books and materials are not

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<sup>22</sup> *Florida Citizens Alliance, Inc. v. School Bd. of Collier Cnty.*, 328 So.3d 22 (Fla. 2d DCA 2021). Florida's Sunshine Law is established in s. 286.011, F.S.

<sup>23</sup> Section 1006.28(2)(a)1., F.S.

<sup>24</sup> Florida Department of Education, *Library Media Services*, <https://www.fldoe.org/academics/standards/subject-areas/library-media-services-instructional-t/> (last visited Jan. 18, 2022).

<sup>25</sup> Section 1012.01(2)(c), F.S.

<sup>26</sup> Rule 6A-4.0251, F.A.C.

<sup>27</sup> Section 1006.28(2)(d), F.S.

<sup>28</sup> Section 1006.34(2)(b), F.S.

considered under the state-level instructional materials adoption, and are reviewed and selected at the school level.

School district policies regarding library media materials selection vary. Some school districts have policies that provide criteria for the selection of materials, with consideration being given to the needs of the school based on the knowledge of curriculum and existing collection, and the needs of the students attending the school.<sup>29</sup> Such procedures may include the school media specialist evaluating reputable, unbiased, and professionally prepared aids such as those published by companies and accepted by the educational media profession. The school media specialist may also consult with other staff members of a school regarding evaluation of materials. Some school districts also utilize district handbooks that provide support for library media specialists.<sup>30</sup>

Best practices for developing a school library collection include research on potential books and basing selections on the goals and objectives of the school and the students' personal interests and learning. Materials should be appropriate for the subject area and age, emotional development, ability level, learning styles, and development of the students for whom the materials are selected.<sup>31</sup> Resources such as Association for Library Service to Children, Booklist, School Library Journal, Kirkus, and Young Adult Library Services Association are commonly recommended review sources for school librarians.<sup>32</sup>

Several school districts in Florida implement an online, searchable catalogue of all library materials at each school for parents, students, and the public to access materials.<sup>33</sup>

### *Objection to Materials*

Each district school board is required to establish a process by which a parent or resident of the county may contest the district school board's adoption of a specific material.<sup>34</sup> Parents must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the material. The school board is required to conduct at least one open public hearing before an unbiased and qualified hearing officer that is not an employee or agent of the school district. Following the hearing, the school board's decision is made and not subject to further petition or review.<sup>35</sup>

### *Required Instruction*

Florida law requires certain topics to be taught in kindergarten through grade 12 public schools annually to ensure coverage of all State Board of Education adopted standards in reading and language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.<sup>36</sup> Instructional personnel must teach these topics efficiently and faithfully, utilizing materials that meet the highest standards for professionalism and historical accuracy.<sup>37</sup>

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<sup>29</sup> See, e.g., The School District of Osceola County, Florida, 2021-22 School Board Rules, 4.22 *Educational Media Materials Selection* (2021) at 189, available at

<https://www.osceolaschools.net/site/handlers/filedownload.ashx?moduleinstanceid=15041&dataid=75567&FileName=OCSBR%202021-22%20121421.pdf>.

<sup>30</sup> Santa Rosa County School District, *Library Media Handbook* (2016), available at <https://sites.santarosa.k12.fl.us/files/lmshdbk.pdf> (providing a mission statement, the role of the school library media specialist, and the library media center management, evaluation, and selection protocol).

<sup>31</sup> American Library Association, Selection Criteria, *School Library Selection Criteria*, <https://www.ala.org/tools/challengesupport/selectionpolicytoolkit/criteria> (last visited Jan. 17, 2022).

<sup>32</sup> *Id.*

<sup>33</sup> See, e.g., Orange County Public Schools, *Orange County Library System Website* (2021), available at [https://ocps.follettdestiny.com/common/welcome.jsp?context=saas065\\_0960615](https://ocps.follettdestiny.com/common/welcome.jsp?context=saas065_0960615). See also Miami-Dade County Public Schools, *Destiny Catalog* (2021), available at <http://virtuallibrary.dadeschools.net/>. School districts including Orange County and Miami-Dade County use Follett Destiny Library Manager, a commonly used platform for school library management. See Follett Destiny Library Manager, <https://www.folletlearning.com/education-technology/library-management-system>. (last visited Jan. 20, 2022).

<sup>34</sup> Section 1006.28(2)(a)(3), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> Section 1003.42(1), F.S.

<sup>37</sup> Section 1003.42(2), F.S.

Districts must submit a report to the Commissioner of Education annually describing how instruction was provided during the previous school year, including specific courses in which instruction was delivered, a description of materials and resources utilized to deliver instruction, and the professional qualifications of the person delivering instruction for specified topics.<sup>38</sup>

Required instruction topics are not correlated with the instructional materials adoption process at the DOE; therefore, instructional materials that are purchased by a school district to teach these topics may not go through a public adoption process as with instructional materials for core courses.<sup>39</sup> For example, the most recent state instructional materials adoption that included a call for health and physical education materials was in the 2015-2016 adoption; however, no materials were adopted for health and physical education for kindergarten through grade 8.<sup>40</sup> The previous year's adoption, in 2014-2015, adopted three instructional materials for health and physical education courses in high school grade levels.<sup>41</sup>

### Effect of Proposed Changes

The bill improves transparency and accountability relating to the selection and use of instructional materials and library materials in schools.

Specifically, the bill requires each elementary school to publish on its website, in a searchable format prescribed by the DOE, a list of all instructional materials, including those used to teach required instruction topics. In addition, each school board must select, approve, adopt, or purchase materials, in addition to instructional materials, as a separate line item on the school board meeting agenda and provide reasonable opportunity for public comment. The public must also have access to all materials for public inspection and to copy, scan, duplicate, or photograph materials within limits of the "Fair Use" doctrine at least 30 days before any school board action is taken on the materials.<sup>42</sup>

Beginning June 30, 2022, school districts must annually submit to the Commissioner of Education a report identifying materials for which the school district received an objection for the school year, materials that are removed or discontinued as a part of the objection, and the grade level and course for which a removed material was used. The DOE must publish, disseminate, and regularly update a list of materials that are removed or discontinued as a result of an objection.

The bill also expands the list of individuals who must participate in the DOE-developed instructional materials selection training to include school district reviewers of instructional materials for required instruction topics, and reviewers of library materials and books included on reading lists. School librarians, media specialists, and other personnel involved in the selection of school district library materials must complete the training prior to reviewing and selecting materials and library resources. The bill specifies that the training must assist reviewers in complying with Section 1006.31(2), F.S., which requires, among other things, reviewers to include materials portraying the ethnic, socioeconomic, cultural, religious, physical, and racial diversity of our society, and to exclude materials containing pornography and prohibited under s. 847.012, F.S.<sup>43</sup>

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<sup>38</sup> Rule 6A-1.094124, F.A.C. The DOE provides the Required Instruction Portal website for districts to annually submit information on required topics. Florida Department of Education, *Florida Required Instruction Portal*, <https://www.flrequiredinstruction.org/> (last visited Jan. 18, 2022).

<sup>39</sup> Instructional materials adoption at the state level focuses on one or more related subject areas per year, on 5-year rotating basis. Florida Department of Education, Instructional Materials, *FLORIDA INSTRUCTIONAL MATERIALS ADOPTION SCHEDULE FOR ADOPTION YEARS 2020-2021 THROUGH 2023-2024* (2020), available at <https://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf>. The DOE posts the instructional materials adoption cycle for 5 years. K-12 Mathematics is the subject area in the 2021-2022 year.

<sup>40</sup> Florida Department of Education, Instructional Materials, *2015-2016 Florida Department of Education 6-12 Career and Technical Education, K-8 Physical and Health Education, K-12 Visual and Performing Arts, and K-12 World Languages: Chinese, German, Italian and Latin Adopted Instructional Materials* (July 12, 2016), available at <https://www.fldoe.org/core/fileparse.php/5574/urlt/2015-2016AdoptedIMUpdate.pdf>.

<sup>41</sup> Florida Department of Education, Instructional Materials, *2014-2015 Florida Department of Education Adopted Instructional Materials* (Jan. 28, 2016), available at <https://www.fldoe.org/core/fileparse.php/5574/urlt/1415AIMDec2015.pdf>.

<sup>42</sup> See 17 U.S.C. ss. 101 *et seq.*

<sup>43</sup> Section 1006.31(2), F.S.

With respect to the selection of library materials, the bill requires that each book included in a school library collection or required as part of a classroom booklist be selected by a certified educational media specialist, regardless of how the book is acquired. In addition, each district school board must adopt and post on its website procedures for developing library media center collections. Selection procedures must:

- require that book selections be free of pornography and prohibited materials harmful to minors, suited to student needs, and appropriate for the grade level and age group;
- require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders for each selection;
- consider reader interest, support of academic standards and aligned curriculum, and academic needs of students and faculty; and
- provide for regular removal or discontinuance of books based on physical condition, rate of recent circulation, alignment to state standards and relevancy to curriculum, out-of-date content, and required removal.

The bill also codifies the holding of the Second District Court of Appeal by requiring that any meeting of a school district instructional review committee in which materials are ranked, eliminated, or selected for recommendation to the school board be noticed and open to the public as required by Sunshine Laws.

The bill provides that school principals are responsible for overseeing compliance with school library media center materials selection procedures.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s.145.19, F.S.; conforming provisions to changes made by the act.

**Section 2:** Amends s. 1001.39, F.S.; conforming provisions to changes made by the act.

**Section 3:** Repeals s. 1001.395, F.S., relating to district school board members' compensation.

**Section 4:** Amends s. 1001.43, F.S.; conforming provisions to changes made by the act.

**Section 5:** Amends s. 1002.32, F.S.; conforming provisions to changes made by the act.

**Section 6:** Amends s. 1006.28, F.S.; deleting a requirement that district school boards maintain a specified list on their websites; requiring certain meetings relating to instructional materials to be noticed and open to the public; providing requirements for the membership of committees related to instructional materials; requiring certain individuals involved in selecting library materials to complete a specified training; requiring certain materials to be selected by employees who meet specified criteria; requiring district school boards to adopt procedures for developing library media center collections; providing requirements for such procedures; requiring elementary schools, district school boards, and the Department of Education to post on their websites specified information relating to instructional materials and other materials in certain formats; providing district school board requirements; providing school principals are responsible for overseeing compliance with specified procedures relating to library media center materials.

**Section 7:** Amends s. 1006.29, F.S.; revising requirements for the department relating to the development of training programs for the selection of materials used in schools and library media centers.

**Section 8:** Amends s. 1006.40, F.S.; revising district school board requirements for the selection and adoption of certain materials.

**Section 9:** Amends s. 1011.10, F.S.; conforming provisions to changes made by the act.



**Section 10:** Provides an effective date of July 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

*See fiscal comments.*

2. Expenditures:

*See fiscal comments.*

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill does not appear to have a fiscal impact to the Department of Education (DOE). Current law already requires the DOE to provide a training program to instructional materials reviewers and school district reviewers. The bill allows for more than one training program for other personnel involved in the selection of school district library materials. District school boards may incur costs to ensure approval of all district materials have been evaluated and selected by certified library media specialists.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.