

**Senate Bill No. 1154**

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Passed the Senate August 30, 2012

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*Secretary of the Senate*

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Passed the Assembly August 29, 2012

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2012, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 60063.5 to the Education Code, relating to instructional materials.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1154, Walters. Instructional materials: digital format.

Existing law requires the State Board of Education to adopt at least 5 basic instructional materials in specified subject areas for use in kindergarten and grades 1 to 8, inclusive, for district boards, as defined. Existing law also requires the governing board of each school district maintaining one or more high schools to adopt instructional materials that meet specified criteria for use in the high schools under its control. Existing law prohibits the state board from adopting instructional materials until the 2015–16 school year.

Existing law requires a publisher or manufacturer of instructional materials to provide to the state, at no cost, computer files or other electronic versions of each state-adopted literary title and the right to transcribe, reproduce, modify, and distribute the material in braille, large print if the publisher does not offer a large print edition, recordings, American Sign Language videos for the deaf, or other specialized accessible media exclusively for use by pupils with visual or other disabilities that prevent use of standard instructional materials.

This bill would require a publisher or manufacturer that offers printed instructional materials in an equivalent digital format to offer the digital format at the same cost as, or lower cost than, the cost of the purchased printed format, and would require a publisher or manufacturer of printed supplemental instructional materials to offer the supplemental instructional materials in an equivalent digital format at the same cost as, or lower cost than, the cost of the purchased printed format. The bill would, if the publisher or manufacturer cannot obtain copyright due to a 3rd-party contract conflict, authorize an equivalent digital format to be substituted with comparable digital materials. The bill also would authorize a school district to use instructional materials in digital format that were purchased by the school district to create a districtwide online

digital database for classroom use, as specified. The bill would exempt from these requirements small publishers and small manufacturers of instructional materials, as defined, and would specify that these provisions be implemented in accordance with specified provisions suspending the adoption of instructional materials by the state board.

The bill would become operative only if AB 1790 of the 2011–12 Regular Session is enacted.

*The people of the State of California do enact as follows:*

SECTION 1. Section 60063.5 is added to the Education Code, to read:

60063.5. (a) If a publisher or manufacturer offers printed instructional materials in an equivalent digital format pursuant to Section 60063, the digital format shall be offered at the same cost as, or lower cost than, the cost of the purchased printed format.

(b) A publisher or manufacturer of printed supplemental instructional materials shall offer the printed supplemental instructional materials in an equivalent digital format, at the same cost as, or lower cost than, the cost of the purchased printed format.

(c) For purposes of this section, if a publisher or manufacturer cannot obtain copyright due to a third-party contract conflict, an equivalent digital format may be substituted with comparable digital material when adopting instructional materials.

(d) Instructional materials or supplemental instructional materials shall be offered by a publisher or manufacturer as unbundled elements to enable the digital material or printed materials to be purchased separately from other components.

(e) A school district may use instructional materials in digital format that were purchased by the school district to create a districtwide online digital database for classroom use consistent with an online security system that is mutually agreed on by the publisher and the school district.

(f) (1) The requirements of this section shall not apply to a small publisher or small manufacturer of instructional materials.

(2) For purposes of this subdivision, “small publisher” and “small manufacturer” mean an independently owned or operated publisher or manufacturer that, together with its affiliates, has 100

or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

(g) This section does not authorize the use of instructional materials that would constitute an infringement of copyright under the federal Copyright Revision Act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

(h) This section shall be implemented in accordance with the suspension of the instructional materials adoption process pursuant to Section 60200.7.

(i) This section does not require a publisher or manufacturer that submits instructional materials in digital format only for adoption by the state board or the governing board of a school district to offer or submit an equivalent print version of the instructional materials in digital format.

(j) This section shall become operative only if Assembly Bill 1790 of the 2011–12 Regular Session is also enacted and takes effect.







Approved \_\_\_\_\_, 2012

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*Governor*