

Backgrounder and Analysis of HB 580: Another Stealth Creationism Bill

Louisiana Coalition for Science

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Having failed to block approval of new biology textbooks by the Board of Elementary and Secondary Education (BESE) in fall 2010, supporters of the creationist Louisiana Science Education Act (LSEA) are now trying to do an end run around BESE in the form of HB 580, introduced by Rep. Frank Hoffmann (District 15, West Monroe) during the 2011 Regular Session of the Louisiana legislature. Although Senator Karen Carter Peterson's SB 70 to repeal the LSEA failed, HB 580 accomplishes what the LSEA is designed to do should the LSEA ever be repealed. However, with the LSEA still on the books, HB 580 makes the situation even worse by expanding the reach of the LSEA into public school science classes.

HB 580 contains the following provisions:

- (1) Replaces BESE's power to "prescribe and adopt" textbooks and instructional materials with the power merely to "recommend." This will gut the board's power to protect the quality of science textbooks and learning materials. Students could end up using substandard materials that teach pseudoscience.
- (2) Allows local school boards to adopt and purchase — at taxpayer expense — textbooks and other materials that are **not** on the state list, without proper screening by scientists, educators, and curriculum experts, and with **no** spending limits. This blank check for bogus materials comes during a severe recession when schools face stiff budget cuts and teacher layoffs.
- (3) Eliminates the Department of Education's crucial role in (a) screening and reviewing textbooks and instructional materials to ensure their quality and (b) assuring that textbook adoption committees are composed of properly qualified members, as currently provided for under current law.

Factors surrounding the introduction of this unnecessary bill raise additional red flags:

- HB 580 is among the "Bills of Interest" that the Louisiana Family Forum (LFF) is backing through its lobbying arm, Louisiana Family Forum Action. The LFF wrote and promoted the LSEA in 2008. The LFF also tried aggressively but unsuccessfully to block the approval of new biology textbooks in 2010.

The "Action Item" in LFF director Rev. Gene Mills' April 29, 2011, *End of Week* newsletter recommends supporting HB 580:

"HB580 by Rep. Frank Hoffmann, seeks to improve the textbook adoption process for public schools, emphasizing availability of textbooks online and giving more authority to local school boards in the process **OUR POSITION:** Support."

In an earlier newsletter, Mills had pointedly rejected BESE's December 2010 decision to approve new biology textbooks, vowing to get around it:

"While it appears that academic freedom suffered a setback, that's not at all the case! . . . BESE's vote to accept the recommendations of the Textbook Review Committee to include the comprised biology texts on a 'Louisiana's Availability List' is a non-binding, revenue neutral decision that continues the state's policy of allowing districts to choose these or other texts. Not a single school is bound by this decision. **A fact LFF will attempt to make crystal clear to superintendents all over Louisiana.**" — Gene Mills, "Lopsided Science and 'Lop-Scientists!'," December 10, 2010

- Rep. Hoffmann played a previous role in promoting creationism and opposing adoption of new biology textbooks. In 2006, as Asst. Supt. of Education in Ouachita Parish, he promoted a creationist "academic freedom" policy that became the forerunner of the LSEA (*Ouachita Citizen*, 11/29/06, www.ouachitacitizen.com/news.php?id=530). In 2008, as a member of the House Education Committee, he introduced a companion bill to the LSEA, which he shepherded through the House (www.legis.state.la.us/billdata/byinst.asp?sessionid=08RS&billid=HB1168&doctype=ALL).

In 2010, as a member of the Textbook/Media/Library Advisory Council, he voted against adoption of the new biology textbooks after the state textbook adoption committee had already approved them (*Times-Picayune*, 11/12/10, www.nola.com/education/index.ssf/2010/11/new_high_school_biology_books.html).

Below is the LCFS analysis of specific items in HB 580.

Analysis of HB 580 (bold and italics added)

- P. 1:** §8.3. School books prescribed by board
 10 A. The State Board of Elementary and Secondary Education **shall prescribe**
 11 **through rules and regulations the recommendation**, distribution, and use of free
 12 school books and other materials of instruction by the governing authority of each
 13 public elementary and secondary school. . . .

LCFS Analysis — Current law (R.S. 17:8) states that BESE “shall **prescribe and adopt** . . . free school books and other materials of instruction for use in elementary and secondary schools and special schools.” HB 580 weakens BESE’s role here and elsewhere throughout the bill by permitting only its “**recommendation**” of textbooks and instructional materials, thus diluting BESE’s mandate under present law. In addition, HB 580 requires BESE to adopt “rules and regulations” (line 11 above) for the recommendation of new textbooks and related materials, even though present law already includes such rules, thus suggesting that BESE will have to adopt new ones. Past experience indicates that the LFF will try to influence the drafting and implementation of any new rules and regulations. In January 2009, after the 2008 passage of the LSEA, the LFF successfully got the prohibitions against (a) promoting religion under the guise of “critical thinking” and (b) “materials that teach creationism or intelligent design or that advance the religious belief that a supernatural being created humankind” **deleted** from BESE’s LSEA implementation policy in §2304 of *Bulletin 741*, the *Louisiana Handbook for School Administrators*.

- P. 2:** 11 D. The State Board of Elementary and Secondary Education shall require
 12 that all school books and other materials of instruction adhere to curriculum
 13 standards adopted by the board pursuant to R.S. 17:24.4(E).

LCFS Analysis — Although this section appears to protect the quality of textbooks and other materials, the weakening elsewhere in the bill of BESE’s purview over the selection and adoption process will make this requirement very difficult to enforce. Of particular concern is a provision (see below, HB 580 P. 2, 22 F, lines 26-27) allowing parish and local school boards to spend an unrestricted amount of taxpayer money to purchase materials that are **not** on “the state list of recommended textbooks and other instructional materials.”

- P2:** 14 E. . . .
 17 . . . Each such governing authority may purchase
 18 **electronic textbooks and other instructional materials, media, or content** and their
 19 means of distribution or access as it deems necessary and appropriate to fulfill its
 20 educational mission and to address state curriculum standards and school and district
 21 accountability system requirements.

LCFS Analysis — While the availability of electronic materials is increasingly popular and not in itself objectionable, the loosening of BESE’s oversight as proposed in HB 580 will make the adoption of creationist materials easier and even likely. HB 580 is a green light to school boards and individual teachers to do this. For example, the LFF website currently promotes (1) downloadable electronic creationist textbook addendums written by young-earth creationist Charles Voss at www.textaddons.com and (2) an intelligent design creationist DVD module featuring Discovery Institute creationists (see www.lafamilyforum.org/critical-thinking). The Discovery Institute has produced intelligent design videos that could be adopted at the parish level. (See, for example, their products at www.intelligentdesign.org/store.php and www.youtube.com/user/DiscoveryInstitute.)

Since HB 580 reduces BESE’s role from prescribing and adopting materials to merely recommending them, the screening of electronic materials, which can be directly downloaded or ordered via the Internet, will become very difficult, especially in light of the next provision (see below lines 26-27).

- P. 2:** 22 F. The State Board of Elementary and Secondary Education **shall not restrict**
 23 **the amount or percentage of state or local funds** a public school governing authority
 24 may expend for the purchase of printed or electronic textbooks, instructional
 25 materials, or other education-related media or content or their means of distribution
 26 or access **whether or not they are on the state list of recommended textbooks and**
 27 **other instructional materials**.

LCFS Analysis — In addition to the weakening of BESE’s purview over the adoption of textbooks and other materials, this is the most dangerous part of HB 580. By allowing school boards to spend unlimited taxpayer dollars to purchase textbooks and related materials that are not even on a BESE “recommended” list, HB 580 will make the enforcement of state curriculum standards much more difficult, requiring the active monitoring of 66 individual school districts. School boards are being given both a blank check and a direct exemption from the state oversight process, allowing them to purchase anything they want at taxpayer expense, subject to constraints that will be difficult to enforce (see above analysis concerning HB 580 P. 2, 11D).

- P. 6** 4 J. The State Board of Elementary and Secondary Education shall take such
5 action as is necessary to assure that all school books and materials of instruction
6 **included in state publisher contracts** are thoroughly screened, reviewed, and
7 approved as to their alignment with content standards adopted by the board pursuant
8 to R.S. 17:24.4(E).

LCFS Analysis — This section replaces sections of current R.S. 17:352, which HB 580 would actually repeal in its entirety. The proposed wording contains two problems: (1) It changes current law to completely remove the Department of Education (DoE) professional staff from the process of screening, reviewing, and approving textbooks and materials. Current R.S. 17:352.A.(1) states, “The State Board of Elementary and Secondary Education **or the state Department of Education** shall take such action as is necessary to assure that all school books and materials of instruction submitted for state adoption are thoroughly screened, reviewed, and approved as to their content. . . .” (2) In addition, HB 580 includes language that appears to stipulate that BESE’s purview over materials is limited only to materials “**included in state publisher contracts**.” If so, this is especially pernicious in light of HB 580, p. 2, lines 26-27 (above), allowing school districts to spend unlimited taxpayer funds on materials “whether or not they are the state list of recommended textbooks and other instructional materials.”

- P. 6** 9 K. The State Board of Elementary and Secondary Education shall take such
10 action as is necessary to assure that any state committee or other group responsible
11 for screening, reviewing, and evaluating any materials of instruction and computer
12 and related technological equipment and supplies, **other than the governing authority**
13 **of a public elementary or secondary school**, shall contain a membership not less than
14 one-third of which are teachers.

LCFS Analysis — This section makes changes in current R.S. 17:352.A.(2), which provides for the appointment of state committees and other groups tasked with the screening, review, and approval of textbooks and instructional materials. Rep. Hoffmann had deleted this current provision entirely in the initial draft of HB 580. Although he has restored it, the amended HB 580 now includes a subtle but dangerous loophole (in lines 12-13) that allows school boards to circumvent the textbook review process. There are two problems in this section.

- (1) Current law allows the DoE professional staff to participate in the textbook adoption and review process in order “to assure that any state committee or other group responsible for screening, reviewing, and evaluating any materials of instruction” is appropriately staffed with qualified teachers. Like the section of HB 580 at P. 6, 4J above, this section of HB 580 completely removes the DoE from the textbook adoption and review process as it pertains to the appointment of textbook adoption committees. This move most likely stems from the LFF’s desire to undermine the influence of DoE.

In January 2009, both Rev. Mills and Rep. Hoffmann favored deleting prohibitions against creationism from BESE’s draft policy for implementing the LSEA in *Bulletin 741*, “§2304. Science Education.” This draft, which was produced by DoE staff as instructed by BESE, reflected guidelines recommended by scientists and science educators on the Louisiana Science Education Act Advisory Committee, who were also selected by DoE staff. Mills and Hoffmann opposed the initial drafts of the policy and guidelines. The *Baton Rouge Advocate* recorded both Mills’ and Hoffmann’s unhappiness with the drafts, which BESE changed to accommodate their objections.

“Mills said those proposed guidelines included ‘religious hostility’ that went beyond the intent of lawmakers and was a ‘cheap shot.’ . . .

Rep. Frank Hoffmann, R-West Monroe and House handler of the science legislation, said Thursday he objected to a few items in the initial guidelines but is comfortable with the latest draft.” — *Advocate*, 1/9/09, www.2theadvocate.com/news/37319874.html?showAll=y&c=y

NOTE: BESE made these changes upon being advised by the Alliance Defense Fund (ADF, a Religious Right litigation group and LFF ally) that allowing the prohibitions against creationism to remain in *Bulletin 741* policy might provoke a legal challenge. In a January 13, 2009, letter to the board, ADF attorney Mike Johnson advised BESE members that allowing the prohibitions to remain would “likely subject the Board to a costly legal challenge.” Board members apparently were influenced by what could be interpreted as the ADF’s threat of litigation if BESE did **not** remove the prohibitions against creationism to suit the LFF.

- (2) Consistent with the earlier provision in HB 580 allowing school boards to purchase materials separately from the state list, this section includes a loophole that exempts school boards from the requirement that materials be screened and reviewed by qualified educators and staff. By requiring that only committees or groups “**other than the governing authority of a public elementary or secondary school**” must include teachers, school boards may allow people without proper credentials to screen and select textbooks and other materials. This means that school boards are exempt from proper screening procedures. There will then be no quality control over the content of textbooks and other instructional materials purchased with public money.

Conclusion

Being the only state in the entire country with creationist legislation such as the LSEA on the books is bad enough. That law is both misguided and embarrassing. However, with or without the LSEA, HB 580 will accomplish the LSEA’s goal of allowing school children in Louisiana public schools to be misled and misinformed by allowing school boards to spend unlimited public funds to buy creationist materials with virtually no state supervision, and without the valuable expertise of the professional staff at the Department of Education.

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*The Louisiana Coalition for Science is a group of concerned Louisiana residents working to protect the teaching of science in Louisiana. See www.lasciencecoalition.org.