

BILL ANALYSIS

Senate Research Center
81R3607 KEL-D

S.B. 454
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Higher Education
3/14/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Higher education textbook prices are spiraling out of control, making it impossible for students and parents to keep up with the rising costs of higher education. The federal Higher Education Opportunity Act of 2008 textbook provisions require cost-saving strategies, but the Act does not apply until 2010 and there are no penalties if publishers do not follow this new law.

As proposed, S.B. 454 requires publishers to inform faculty members of a book's price, supplemental material prices, copyright dates of previous editions, description of substantial revisions to the latest edition, and availability and pricing of the materials in other formats and to provide an unbundled version of their materials and information regarding the creation of custom textbooks. S.B. 454 authorizes the Texas Higher Education Coordinating Board to impose a penalty against publishers that violate these new laws and authorizes that money collected from this penalty go into a scholarship fund to help certain students pay for textbooks. S.B. 454 requires institutions of higher education to provide ISBN numbers and pricing details for all materials in course schedules given to students and information available to their contracted bookstores within a certain timeframe.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 (Sections 51.455 and 51.456, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 51, Education Code, by adding Subchapter I, as follows:

SUBCHAPTER I. TEXTBOOKS

Sec. 51.451. DEFINITIONS. Defines "coordinating board," "custom textbook," "faculty member," "institution of higher education," "supplemental material," "textbook," "textbook bundle," and "university-affiliated bookstore."

Sec. 51.452. DISSEMINATION OF COURSE SCHEDULE AND LIST OF REQUIRED AND RECOMMENDED TEXTBOOKS. (a) Requires each institution of higher education to:

- (1) for each semester or academic term, compile a course schedule indicating each course offered for the semester or term to postsecondary students by the institution;
- (2) include with the schedule a list of required and recommended textbooks that specifies, for each textbook in each course, certain information to the extent practicable;
- (3) at the time required by Subsection (b)(2), publish the course schedule and textbook list in hard copy format and on the institution's Internet website and make the information available to university-affiliated bookstores and other bookstores that generally serve the students of the institution; and

(4) as soon as practicable after the information becomes available, disseminate as required by Subdivision (3) specific information regarding any revisions to the institution's course schedule and textbook list.

(b) Requires each institution of higher education, to allow for timely placement of textbook orders by students, to establish a deadline by which faculty members are required to submit information to be included in the course schedule and textbook list required by Subsection (a), and to disseminate the institution's course schedule and textbook list as required by Subsection (a)(3) as soon as practicable after the institution has compiled the schedule and list but not later than the 30th day before the first day that classes are conducted for the semester or other academic term for which the schedule and list are compiled.

Sec. 51.453. TEXTBOOK PUBLISHERS: AVAILABILITY OF INFORMATION TO FACULTY CONCERNING TEXTBOOK PRICES, REVISIONS, AND COPYRIGHTS.

(a) Requires a textbook publisher, when the publisher provides information regarding a textbook or supplemental material to a faculty member or other person in charge of selecting course materials at an institution of higher education, to also provide to the faculty member or other person written information that includes:

(1) the price at which the publisher would make the textbook or supplemental material available to a university-affiliated bookstore or other bookstore that generally serves the students of the institution and, if applicable, to the public;

(2) the history of any substantial revisions to the textbook or supplemental material, including the addition of new chapters, new material covering additional time periods, new themes, or new subject matter;

(3) the copyright dates of the current and three preceding editions of the textbook;

(4) information as to whether the textbook or supplemental material is available in other formats, such as a paperback or unbound version; and

(5) the price at which the publisher would make the textbook or supplemental material in any alternative format available to a bookstore described by Subdivision (1) and, if applicable, to the public.

(b) Requires a textbook publisher to comply with this section with respect to a custom textbook only to the extent reasonably practicable.

Sec. 51.454. TEXTBOOK BUNDLES. Requires a textbook publisher that offers a textbook bundle for sale directly to students enrolled at an institution of higher education or, for resale purposes, to a university-affiliated bookstore or other bookstore that generally serves the students of the institution, to also offer for sale to the students or bookstore, as applicable, each individual item of instructional material as a separate, unbundled item that is separately priced.

Sec. 51.455. ADMINISTRATIVE PENALTY. (a) Requires the Texas Higher Education Coordinating Board (THECB) to adopt rules under which THECB may impose a reasonable administrative penalty against a textbook publisher that knowingly violates this subchapter. Requires that the rules provide for THECB to hold a hearing to determine whether a penalty is to be imposed and the amount of any penalty. Requires THECB to base the amount of any penalty on the seriousness of the violation, any history of a previous violation, the amount necessary to deter a future violation, any effort to correct the violation, and any other matter justice requires.

(b) Authorizes the attorney general to bring an action to collect an administrative penalty that is not paid as directed by THECB.

Sec. 51.456. TEXTBOOK SCHOLARSHIPS. (a) Authorizes revenue collected from administrative penalties imposed under Section 51.455 to be used only for awarding to students enrolled at institutions of higher education scholarships to cover the costs of textbooks and other instructional material.

(b) Requires THECB to adopt rules to administer this section, including rules that establish criteria for awarding scholarships and criteria requiring scholarship recipients to demonstrate financial need.

SECTION 2. Provides that Subchapter I, Chapter 51, Education Code, as added by this Act, applies beginning with the 2010 fall semester.

SECTION 3. Effective date: September 1, 2009.