

## **BILL ANALYSIS**

S.B. 810  
By: Kolkhorst  
Higher Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note the rising cost of college textbooks in calling for the establishment of a grant program to encourage faculty at public institutions of higher education to adopt, modify, redesign, or develop courses that use only open educational resources. S.B. 810 seeks to establish such a program.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 5 of this bill.

### **ANALYSIS**

S.B. 810 amends the Education Code to require the Texas Higher Education Coordinating Board to establish and administer a temporary grant program to encourage faculty at public institutions of higher education to adopt, modify, redesign, or develop courses that use only open educational resources, which the bill defines as a teaching, learning, or research resource that is in the public domain or has been released under an intellectual property license that permits the free use, adaptation, and redistribution of the resource by any person.

S.B. 810 authorizes a faculty member of an institution of higher education under the program to apply to the coordinating board for a grant to adopt, modify, redesign, or develop one or more courses at the institution to exclusively use open educational resources. The bill requires the coordinating board, for each course identified in a grant application, to select at least three persons qualified to review the curriculum of the course, as determined by the coordinating board, to evaluate the application with respect to that course. If the application is rejected, the reviewing persons must provide feedback on the application, which may be provided anonymously, to the faculty member.

S.B. 810 requires a faculty member who receives a grant to ensure that any open educational resource used in each applicable course is provided to a student enrolled in the course at no cost other than the cost of printing and to submit to the coordinating board for each of the four semesters immediately following the implementation of each applicable course a report that includes certain information on the course and the use of open educational resources in the course. The bill authorizes a faculty member who receives a grant to continue to submit such a report for a semester that occurs after the faculty member's duty to submit the report has expired and authorizes the coordinating board to consider a faculty member's failure to submit additional reports in evaluating a subsequent grant application submitted by the faculty member.

S.B. 810 establishes that a faculty member who is no longer employed by an institution of higher education forfeits any grant awarded under the program and prohibits the coordinating board from awarding a grant under the program to a faculty member of a postsecondary educational institution other than an institution of higher education. The bill requires the coordinating board, not later than December 1 of each even-numbered year, to submit to the governor, lieutenant governor, speaker of the house of representatives, and each standing legislative committee with primary jurisdiction over higher education a report on certain items concerning the grant program and open educational resources, with submission of the initial report required not later than December 1, 2019.

S.B. 810 authorizes the coordinating board to solicit and accept gifts, grants, and donations from any public or private source for purposes of the program and requires the coordinating board to adopt rules for the administration of the program. The bill adds a temporary provision, set to expire December 1, 2019, prohibiting the coordinating board from using appropriated funds in an amount greater than \$200,000 for purposes of the program in the 2018-2019 state fiscal biennium but authorizing the coordinating board to use any amount of other funds available for those purposes. The bill's provisions relating to the grant program expire September 1, 2021.

S.B. 810 requires the coordinating board to conduct a study to determine the feasibility of creating a state repository of open educational resources and sets out the factors the study must consider. The bill requires the coordinating board, in conducting the study, to collaborate with relevant state agencies and other stakeholders and to submit to the governor, lieutenant governor, speaker of the house of representatives, and each standing legislative committee with primary jurisdiction over higher education a report on the results of the study and any recommendations for legislative or other action not later than September 1, 2018. The bill sets out certain information the report must include. The bill prohibits the coordinating board from using appropriated funds in an amount greater than \$100,000 for purposes of the study, but authorizes the coordinating board to use any amount of other available funds for purposes of the study and to solicit and accept gifts, grants, and donations for that purpose. The bill's provisions relating to the study expire September 1, 2019.

S.B. 810 includes among the information specified by the list of required and recommended textbooks included with the course schedule compiled by each institution of higher education information on whether the textbook is an open educational resource. The bill requires an institution of higher education or a college bookstore that publishes a textbook list with a course schedule on a website that provides a search function to ensure that the search function permits a search based on whether a course or section of a course requires or recommends only open educational resources or to provide a searchable list of courses and sections of courses that require or recommend only open educational resources. The bill includes among the information an institution of higher education is required to make reasonable efforts to disseminate to its students information regarding the availability of courses and sections of courses that require or recommend only open educational resources.

S.B. 810 excludes an open educational resource from the requirement that a textbook publisher who 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 also provide to the faculty member or other person written information concerning prices, revisions, and copyrights.

S.B. 810 takes effect only if a specific appropriation for the bill's implementation is provided in a general appropriations act of the 85th Legislature. The bill's provisions other than those relating to the grant program and the study apply beginning with the 2018 spring semester.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.