

Date of Hearing: April 12, 2016

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2214 (Harper) – As Amended March 28, 2016

SUBJECT: Public postsecondary education: faculty royalty income disclosure

SUMMARY: Amends the College Textbook Transparency Act; and, requires the California State University (CSU) Trustees and the governing board of each California Community College (CCC) district, and requests the University of California (UC) Regents to require its faculty members to annually disclose, on or before April 15, 2017, and on or before April 15 of each year thereafter, all of the income he or she received in the immediately preceding calendar year from a publisher, periodical, or provider of online content for royalties, advances, consulting services, or for any other purpose. Specifically, **this bill:**

- 1) Specifies that an adopter at an institution of higher education shall not demand or receive anything of value, including the donation of equipment or goods, any payment, loan, advance, or deposit of money, present or promised, for adopting specific course materials required for coursework or instruction, except that an employee may receive royalties or other compensation from sales of course materials that include the instructor's writing or other work; and, specifies that receipt of these royalties or compensation is subject to the employer's standing policies or collective bargaining agreements relating to employee conflicts of interest and, with respect to faculty members of the CSU and the CCC, as specified.
- 2) Requires the CSU Trustees and the governing board of each CCC district, and requests the UC Regents to require its faculty members to annually disclose, on or before April 15, 2017, and on or before April 15 of each year thereafter, on a form and in a manner to be determined by the Trustees, the governing board, or the Regents, as appropriate, all of the income he or she received in the immediately preceding calendar year from a publisher, periodical, or provider of online content for royalties, advances, consulting services, or for any other purpose.
- 3) Specifies that a faculty member, as applicable shall file a form even if he or she has no disclosable income in the calendar year; and that a faculty member shall file the form required under penalty of perjury.
- 4) Requires the Trustees, community college district governing boards, and Regents to ensure that the information provided by the faculty members, as specified, is available to the public on the Internet Web site of the institution at which the faculty members teach; and specifies that the information provided by an individual faculty member shall remain available on the Internet Web site for as long as that individual is employed as a teacher at that institution.
- 5) Stipulates that the Trustees, community college district governing board, and the Regents, as appropriate, may require, with proper notice and an opportunity for a hearing, a faculty member who does not file the information required, as specified, in a timely manner to pay an administrative fine of up to \$50.

- 6) Specifies that the proceeds of any administrative fines shall be collected by the Trustees or by a community college district governing board, as appropriate, and shall be deposited in a fund for allocation, as specified.
- 7) Requires the Trustees to deposit the proceeds of administrative fines collected into the California State University Faculty Royalty Disclosure Fund (CSUFRDF), as established.
- 8) Specifies that the monies in the CSUFRDF are continuously appropriated to the Trustees for allocation for expenditure for general educational purposes at the campus at which the faculty member who was assessed the fine is employed.
- 9) Authorizes the governing board of a community college district to expend the proceeds of any administrative fines collected, as specified, for general educational purposes at the campus at which the faculty member who was assessed the fine is employed.
- 10) Requests the Regents to allocate the proceeds of any administrative fines collected, as specified, in a manner similar to that of number five above.

EXISTING LAW: Establishes the College Textbook Transparency Act, which, among others, requires publishers and bookstores offering textbooks for sale to public colleges and universities to disclose specified information and requires faculty and other employees of public higher education to follow specified practices in the adoption and purchase of textbooks, including, but not limited to the following:

- 1) Consider the cost in the adoption of textbooks;
- 2) When adopting, an adopter institution of higher education shall not demand or receive anything of value, including the donation of equipment or goods, any payment, loan, advance, or deposit of money, present or promised, for adopting specific course materials required for coursework or instruction, except that an employee may receive any of the following:
 - a) Complimentary copies, review course materials, or instructor copies. The adopters shall not sell instructor copies;
 - b) Royalties or other compensation from sales of course materials that include the instructor's writing or other work. Receipt of these royalties or compensation is subject to the employer's standing policies or collective bargaining agreements relating to employee conflicts of interest;
 - c) Honoraria for academic peer review of course materials. Receipt of honoraria is subject to the employer's standing policies relating to employee conflicts of interest; and,
 - d) Training in the use of course materials and course technologies. Payment for travel and lodging and or meals shall be subject to the employer's standing polices relating to employee conflicts of interest and compensation.
- 3) A publisher or campus bookstore shall not solicit faculty for the purpose of the sale of instructor copies or complimentary teachers editions of textbooks that have been provided by a publisher at no charge to a faculty member or other employee; and,

- 4) Any self-published textbook by an instructor for use with that instructor's class shall be exempt, if the instructor discloses the publishing and use of those materials to his or her employer institution (Education Code Section 66406.7).
- 5) Requires, as of January 1, 2020, any person, firm or corporation that publishes textbooks offered for sale at the UC, CSU, CCC or a private college or university to make the textbooks available for sale in an electronic format (EC Section 66410).

FISCAL EFFECT: Unknown

COMMENTS: *Background.* Textbook publishers are required to contain the cost of postsecondary instructional materials by doing a number of things including giving students the option of buying books without additional "bundled" materials and providing specified information to faculty on the books and other materials that they sell, including both bundled and unbundled options, and the net price of each product.

Additionally, the CSU Trustees and the CCC Board of Governors are required, and the UC Regents requested, to continue to work with their academic senates to encourage faculty to consider cost when assigning textbooks, disclose cost and related information to students, and work with publishers to deliver cost savings to students.

Need for the measure. According to the author, "Many professors require students to buy the book they author, whether or not it is the more cost efficient or most to-date version." The author contends that, "Students deserve to have more transparency within the school system to ensure that costs are as low as possible."

Additionally, the author argues that, depending on longevity and previous sales numbers, authors usually receive around 11-15 percent of a book's sales; for a book that costs \$181.50, the author(s) would make roughly \$25 per sold copy and for a class of 30 students a professor could potentially earn \$750 per class and for a larger class size of 125 students, a professor could make \$3,125 per class.

This measure requires the CSU and CCC, and requests the UC, to have their faculty members annually disclose all of their income received, in the preceding year, from royalties, advances and consulting services; and, published said information on the institution's Internet Web sites.

Policy considerations. As presently drafted, this measure requires the CSU Trustees and community college district governing boards, and requests the UC Regents to ensure that faculty disclosure information shall remain available on the Internet Web site for as long as that faculty member is employed at that institution.

Many faculty remain within their campus or system for many years; potentially, that could lead to many disclosure forms for each faculty member being added to the Internet Web sites every year. It is unclear as to whether or not the CSU and CCC or even UC, have the storage capacity to post faculty disclosure forms for the entire span of each faculty members' employment.

Moving forward, the author may wish to consider only requiring and requesting, as specified, the posting of faculty disclosure forms to simply cover the most recent past year and current year during the duration of a faculty member's employment; or, simply just posting said information only when a faculty member has something to report.

As presently drafted, this measure allows the CSU Trustees, community college district governing boards, and UC Regents, to determine what type of form and manner faculty shall use when reporting, all of the income he or she received in the immediately preceding calendar year from a publisher, periodical, or provider of online content for royalties, advances, consulting services, or for any other purpose.

According to the CSU, the system currently utilizes a form that may be able to capture what this measure seeks. However, CSU employees presently are to complete said form more frequently than this measure calls. To note, if the CSU determines it will need to create a new form, Committee staff understands that it will have to be collectively bargained.

Moving forward, the author may wish to work directly with the CSU in order to ensure the existing CSU form is feasible in order to implement this measure.

Related legislation. AB 1582 (Allen and Harper), which is awaiting a hearing in the Assembly Elections and Redistricting Committee and this Committee, would, among others, require public postsecondary educational institutions to disclose items of value they receive as a result of adopting specific course materials.

Previous legislation. AB 1548 (Solorio), Chapter 574, Statutes of 2007, which created the College Textbook Transparency Act, requires faculty and other textbook adopters to follow specified practices in the adoption and purchase of textbooks.

SB 386 (Runner) of 2009, which was held on the Senate Appropriations Committee Suspense File, would have required faculty members at community colleges and the CSU, and requested the UC, to prepare a justification for any adoption of a new edition of a textbook within three years after the adoption of a previous edition of that textbook. The justification would have been required to include a disclosure of any financial interest of the faculty member related to requiring students to purchase the new edition of the textbook.

REGISTERED SUPPORT / OPPOSITION:

Support

Howard Jarvis Taxpayers Association

Opposition

California Federation of Teachers

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