

Date of Hearing: April 17, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Marty Block, Chair

AB 2471 (Lara) – As Amended: April 9, 2012

SUBJECT: Postsecondary education: e-textbooks.

SUMMARY: Requires the Trustees of the California State University (CSU) and the governing board of the California Community Colleges (CCC) and urges the Regents of the University of California (UC) and the governing body of each private postsecondary educational institution that offers a baccalaureate degree to adopt policies to prohibit the assignment of an e-textbook unless that e-textbook complies with various provisions. Specifically, this bill:

- 1) Requires an e-textbook assigned as required or recommended reading in a course offered at a postsecondary institution to meet all of the following:
 - a) For content licensed as proprietary copyright, be offered with pricing tiers that reflect consumer access rights over periods of time. At a minimum, both a "rental" price and a "lifetime purchase" price shall be listed by the publisher, clearly noting consumer access to the e-textbook over periods of time.
 - b) Be offered with cloud storage, and be housed by copyright publishers for access by consumers.
 - c) For content licensed as proprietary copyright, the publisher must make available to the consumer a clear and explicit refund policy allowing a full refund for a purchased e-textbook for up to 14 days from the date of purchase.
 - d) The publisher must provide the consumer with explicit digital rights management information, including, but not limited to, the percentage of the e-textbook that can be printed, the percentage that can be copied and pasted outside and exported of the electronic reading environment, and the durability of any notes or highlights the consumer creates.
 - e) The publisher must offer electronic subscriptions to online services relating to the e-textbook that are not bundled with the e-textbook, to enable students with a hardcopy version of the textbook to purchase these electronic subscriptions without purchasing the e-textbook.
- 2) Defines the various terms used in the legislation.

EXISTING LAW:

- 1) Requires textbook publishers that offer textbooks for sale at the UC, the CSU, the CCC, or private postsecondary institutions in the state, to the extent practicable, to make those textbooks, in whole or in part, available for sale in an electronic format by January 1, 2020, and requires the electronic version of any textbook to contain the same content as the printed version, and authorizes the electronic version to be copy protected.

- 2) Requires textbook publishers, for textbooks published on or after January 1, 2010, to print a summary of the substantive content differences between the new edition and any prior edition, as well as the copyright date of the previous edition.
- 3) Urges textbook publishers to take specific actions to reduce the cost of college textbooks and requires the CSU, CCC, and requests the UC work with academic senates to encourage faculty to consider cost friendly practices in assigning textbooks, to disclose to students how the new editions of textbooks differ from previous editions and the cost of the selected textbooks, to review procedures for faculty to inform college and university bookstores to textbook selections, and to encourage faculty to work closely with publishers and college and university bookstores in creating economically sound bundles and packages.

FISCAL EFFECT: Unknown

COMMENTS: Purpose of this bill. According to the author, a considerable cost to students seeking higher education is textbooks. The California State Auditor has reported that the significant price of textbooks makes it more likely that some students will forgo or delay attending college. While student fees have increased considerably during recent academic years, textbook prices have risen at an even greater rate. In response to these trends, California has taken several steps to address the rising costs of textbooks, including, most recently, mandating that textbooks be available by January 1, 2020 in electronic format. Electronic textbooks have the potential to increase convenience and reduce costs for students. However, students have encountered several problems with online materials, including:

- 1) Lack of notification of online materials charges. This is particularly troublesome for students who have a specific budget for tuition and textbooks and are notified about online fees after enrollment in the class.
- 2) Unclear refund policies. Many times, when a student needs to a drop class, publishers do not provide refunds, even when the student has dropped the class within the time period allowed by colleges or universities.
- 3) Access charges. Students often find that if the student decides to take the same class in the future they are required to purchase the access fee again.
- 4) Expiration of access. After a course is completed, students find that they cannot download the material for future reference because access codes expire after a certain date. For the student, there is nothing tangible - no proof of having taken the course or purchased the materials - as most publishers won't allow students to download e-textbooks even if they have paid for the materials.

According to the author, this bill would ensure uniformity of practices among publishers of electronic textbooks. The author argues that the current lack of uniform practices often denies students information and options they need to enable them to make fully informed decisions regarding what can be an enormous portion of their limited budgets.

Shared responsibility and current efforts. In 2008, the California State Auditor released a report entitled "Affordability of College Textbooks," which identified publishers, campus bookstores, and faculty members as responsible parties needing to work together to reduce costs and properly disclose textbook information to students. This bill appears intended to respond to that recommendation by placing requirements regarding electronic textbooks on higher education segments. *However, considering the requirements contained in this bill are primarily under the control of textbook publishers and distributors, the Committee may wish to consider if it would be more appropriate to direct these requirements to publishers and distributors.*

It is also important to note that California's public higher education segments have already undertaken several efforts to expand online learning options and increase affordability for students. For example, CSU's online learning approaches include:

- 1) MERLOT (www.merlot.org) is an online, open and free library of online teaching and learning materials (websites) that faculty and students can use in their teaching and learning. MERLOT is administered by the CSU but is an international consortium of higher education institutions, professional organizations, and corporations.
- 2) Digital Marketplace Initiative (www.dmpproject.org) is a CSU project that develops and deploys technology and business innovations that will lead to more affordable and accessible educational content at lower costs. For example, the project includes a technology tool that allows a faculty member or student to type in the book number of their textbook and the program searches for free/open online materials that cover similar topics to those covered in the textbook.
- 3) Affordable Learning Solutions Initiative (<http://als.csuprojects.org>) is a CSU project that directly delivers services to faculty and students for finding more affordable and accessible course materials.

It is unclear how the provisions of this bill would affect existing efforts of the CSU and other public higher education segments to create affordable online learning tools and to negotiate with publishers to provide affordable solutions for students.

Rental and lifetime purchase. This bill would require electronic textbooks to be available for both rental and lifetime purchase. According to information obtained by Committee staff, at least one of the major providers of electronic textbooks for publishers would not be able to satisfy the lifetime purchase option for digital content. Lifetime purchase would require the publisher to either maintain storage of every electronic textbook ever produced or to provide a "downloadable" version for students to store the electronic textbook on their own device. The download requirements are not used by all electronic textbooks distributed for a variety of reasons, including digital rights management technologies and version management. According to information provided to Committee staff, the requirement of a lifetime purchase option could prevent a number of current and major electronic textbook vendors from serving students within California's public higher education segments. *Committee staff recommends the author continue to work with publishers and the higher education segments to ensure that the lifetime purchase requirement contained in this bill does not unreasonably limit the ability of the segments to partner with electronic textbook publishers and distributors.*

Cloud storage requirement. This bill would require electronic textbooks to be available through cloud storage, which means that publishers or electronic textbook distributors would be required to provide continuous online access services. Cloud storage generally refers to saving data to an off-site storage system maintained by a third party, instead of storing information to one's computer hard drive or other local storage device. The internet provides the connection between one's computer and the database. Committee staff understands this requirement is intended to ensure that students can access electronic textbooks from any computer with internet access. According to information obtained by Committee staff, some electronic textbook distributors are currently only providing students the option of downloading electronic textbooks to a single computer. It is unclear if the cloud storage requirement would add costs to publishers and distributors or whether those costs would then be passed on to students. It is also unclear if the cloud storage requirement would result in publishers and distributors choosing to no longer make electronic textbooks available in a format that provides access to students when not on the internet. *The term cloud storage is a fairly commonly used term to describe internet-based storage of data; however, considering the rapidly changing technology surrounding electronic textbooks, the Committee may wish to consider if it is appropriate to place this term in statute. The author may also wish to consider if students should be ensured access to an electronic textbook when in areas without internet service, in addition to the web-based access provided under the cloud storage requirement.*

Suggested amendments.

- 1) Refund policies. According to the author, this bill is intended to align electronic textbook refund policies with hard-copy textbook policies. The author argues that students may have to drop out of a class or decide they need to take the class at a later date. Instead of incurring a sunk cost, this bill would make a refund available to these students. *A technical amendment is needed to clarify that a student is entitled to a refund for "at least" 14 days from the date of purchase.*
- 2) Electronic textbook. Existing law requires textbook publishers to make available electronic versions of textbooks available to students by January 1, 2020. It is unclear if the definition of "e-textbook" contained in this bill would include the electronic versions of textbooks as mandated under current law. *If the provisions of this bill are intended to cover the electronic versions of textbooks required under current law (EC §66410), then Committee staff recommends clarifying amendments.*

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

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