

Date of Hearing: July 3, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Marty Block, Chair
SB 1052 (Steinberg) – As Amended: May 29, 2012

SENATE VOTE: 32-3

SUBJECT: Public postsecondary education: California Open Education Resources Council.

SUMMARY: Establishes the nine-member California Open Education Resources Council (COERC) that will be responsible for a variety of tasks geared toward reducing textbook costs for the 50 most widely taken lower division courses. Specifically, this bill:

- 1) Establishes the COERC, to be administered by the Intersegmental Committee of the Academic Senates of the University of California (UC), California State University (CSU), and California Community Colleges (CCC) or a successor agency, with the following membership:
 - a) Three UC faculty selected by the UC Academic Senate,
 - b) Three CSU faculty selected by the CSU Academic Senate, and,
 - c) Three CCC faculty selected by the CCC Academic Senate.
- 2) Requires the COERC to do all of the following:
 - a) Develop a list of the 50 most widely taken lower division courses in the public postsecondary education segments,
 - b) Create and administer a standardized, rigorous review and approval process for open source materials developed pursuant to this legislation,
 - c) Promote strategies for the production, access, and use of open source materials, and,
 - d) Require publishers of textbooks used in the 50 most widely taken lower division courses to, as a condition of the purchase of textbooks, to provide the campus with at least three copies of the textbook at no cost, for placement on reserve at the campus library.
- 3) Requires the COERC to establish a competitive bid process in which faculty members, publishers, and other interested parties may apply for funds to produce 50 high-quality affordable, digital open source textbooks and related materials in 2013.
- 4) Requires textbooks and other materials produced to be:
 - a) Placed under a creative commons attribution license that allows others to use, distribute, and create derivative works based upon the digital material while still allowing the authors or creators to receive credit for their efforts.

- b) Modular in order to allow easy customization and be encoded in an Extensible Markup Language format or other successor format so that the materials can be made available on a wide range of platforms.
 - c) Submitted to and housed within the California Open Source Digital Library when and if that library is established pursuant to statute.
- 5) Expresses legislative findings and declarations relating to the cost of college and university textbooks.
- 6) Becomes operative only if funds are appropriated in the Budget Act or if federal or private funds are made available, or any combination thereof.

EXISTING LAW:

- 1) Requires, by January 1, 2020, publishers of textbooks used at UC, CSU, CCC, or private postsecondary educational institutions, to the extent practicable, to make textbooks available in whole or in part for sale in an electronic format and requires the electronic format to contain the same content as the printed version. (Education Code § 66410)
- 2) Establishes the College Textbook Transparency Act [AB 1548 (Solorio), Chapter 574, Statutes of 2008], which requires faculty members and academic departments at an institution of higher education to consider cost in the adoption of textbooks, and requires textbook publishers to disclose specified information. (EC § 66406.7)
- 3) Requires the CSU Board of Trustees and the CCC Board of Governors, and requests the UC Board of Regents, to work with their academic senates to encourage faculty to give consideration to the least costly practices in assigning textbooks, to encourage faculty to disclose to students how new editions of textbooks are different from previous editions and the cost to students for textbooks selected, among other things. Existing law also urges textbook publishers to provide information to faculty when they are considering which textbooks to order, and to post information on the publishers' Web sites, as specified. Publishers are also asked to disclose to faculty the length of time they intend to produce the current edition and provide faculty free copies of each textbook selected. (EC § 66406)

FISCAL EFFECT: This bill was keyed non-fiscal after recent amendments, since its implementation is depending on a budget appropriation or private funds. However, according to the according to the Senate Appropriations Committee's analysis, this bill will result in substantial one-time costs for COERC activities and significant on-going costs to maintain and update digital files, as follows:

- 1) COERC: The scope of the COERC costs will depend on the degree to which the workload can be absorbed by existing staff to the ICAS. At a minimum, there will be significant costs to staff the COERC to complete the required activities, to create and execute the competitive bid process, to create contracts with the entities that ultimately produce the content, and to establish procedures for segment use of the final products.
- 2) Digital textbooks: The state will pay for the creation/procurement of 50 high-quality, open source, digital textbooks. The specific costs will be driven by the market for the 50 courses

for which textbooks will be sought. These digital files will be stored and administered on an ongoing basis, as is detailed in a companion bill SB 1053 (Steinberg).

- 3) Revenue loss: Upon implementation, there will likely be a significant loss of state sales tax revenues to the extent that students were previously purchasing textbooks for the 50 courses from sales tax-generating businesses in California. Additionally, there will likely be a substantial revenue loss to campus bookstores, which are often self-supporting and, in some cases, support other campus activities.

COMMENTS: Background. Several reports throughout the last decade have noted the increasing cost of college textbooks. For example, the California State Auditor released a report entitled "Affordability of College Textbooks" (2008) that identified publishers, campus bookstores, and faculty members as responsible parties needing to work together to reduce costs and properly disclose textbook information to students.

In response, California and the federal government enacted laws to provide greater information to faculty and students about textbook prices and options, differences in new editions, and to provide supplements instead of new editions; to encourage the timely adoption of textbooks by faculty; and to ensure faculty choose lower cost textbook options. A report on the implementation of the federal laws is due in July 2013.

Need for the bill. According to the author, the cost of textbooks represents a significant burden to students and families. The author cites a recent report by the CSU Chancellor's office that estimates CSU students pay approximately \$1,000 per year for textbooks. The author also notes a finding by the CCC Academic Senate that the cost of educational materials has become a "visible barrier to college attendance for many students." The author maintains that the old model of rigid, printed textbooks and related materials can fall short in providing flexible and dynamic teaching tools necessary to maximize student success. This bill attempts to address those costs for the 50 most common lower division courses by requiring the availability of textbooks for those courses to be available on reserve at the campus library and by enabling instructional materials for those courses to be available through Open Education Resources.

Open Education Resources. Open Education Resources (OER) are educational materials such as textbooks, research articles, videos, assessments, or simulations that are either licensed under an open copyright license or are in the public domain. OERs provide no-cost access and no-cost permission to revise, reuse, remix, or redistribute the materials.

Beginning with the Massachusetts Institute of Technology in 1999, several higher education institutions have initiated OER efforts. In California, the Foothill-De Anza Community College District received a one-time grant from the William and Flora Hewlett Foundation in 2003, and created freely available course materials for eight college courses using a mixture of open education resource and conventional commercial learning materials; however, this project has not been maintained due to a lack of funding.

Issues to consider.

- 1) Scope. This bill tasks the COERC with identifying the 50 most widely taken lower division course in the public postsecondary segments and producing 50 high-quality, affordable, digital open source textbooks and related materials in 2013. Course offering among

campuses vary widely, especially among CCCs. Should the focus be on the most widely used textbooks, rather than courses, and should the price of the textbook, as well as its popularity, be a deciding factor? Are career technical education courses included, since textbooks in these areas tend to be more expensive? Is 50 the right number, or should the number be determined by the COERC? Finally, recognizing that the cost of textbooks has increased for students at private institutions, should the COERC also include faculty representing the independent colleges and universities?

- 2) Textbook reserve requirements. This bill would prohibit public postsecondary education institutions from purchasing textbooks for one of the 50 most widely taken lower division courses unless the publisher places at least three free copies of the textbook on reserve at the campus library. Some type of verification process would be needed to ensure that the publisher had provided the free copies before a campus bookstore could complete the faculty order. What impact would this have on the timely ability of bookstores to stock textbooks? What if the publisher refuses to provide the copies? Is three the right number? A very small off-campus center may only have 30 students enrolled in one freshman English course, while a very large campus might offer multiple sections, taught by faculty who might each select different textbooks.
- 3) Timeframe/report. This bill does not include a timeframe for COERC to accomplish the required deliverables or a report on the COERC's progress and results. The Committee suggests a progress report to the Legislature and Administration by July 1, 2014, and a final report by January 1, 2016.
- 4) Sustainability. For OER to be useful it must be current. How will the OER developed under this bill be kept current, and how will this effort be funded?

Related and prior legislation. This bill is a companion to SB 1053 (Steinberg), also scheduled to be heard in this Committee on July 3. SB 1053 would establish the California Digital Open Source Library, to be jointly administered by UC, CSU, and CCC for the purpose of housing open source materials. SB 1053 becomes operative only if SB 1052 is enacted.

SB 48 (Alquist), Chapter 161, Statutes of 2009, required any individual firm, partnership, or corporation that offers textbooks for sale at UC, CSU, the CCC, or a private postsecondary education institution in California, to the extent practicable, make them available for sale in electronic format by January 1, 2020.

AB 1548 (Solorio), Chapter 574, Statutes of 2007, established the College Textbook Transparency Act requiring the disclosure of specified information and requiring faculty to follow specified practices in the sale and purchase of textbooks.

AB 577 (Ruskin) of 2007, which was held under submission on the Senate Appropriations Suspense File, would have establishes a three-year pilot program at Foothill-DeAnza Community College District to train faculty and staff from CCC districts statewide with the information and methods to establish OER centers.

REGISTERED SUPPORT / OPPOSITION:

Support

California Community Colleges Chancellor's Office
California Public Interest Research Group
California State Student Association
California State University
California Teachers Association
Campaign for College Opportunity
Coast Community College
Community College League of California
Student Senate for California Community Colleges
University of California Student Association

Opposition

Association of American Publishers, Inc.

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