

Date of Hearing: June 19, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Marty Block, Chair
SB 1539 (Corbett) – As Amended: May 2, 2012

SENATE VOTE: 24-10

SUBJECT: Postsecondary education: textbooks.

SUMMARY: Requires the publisher of a textbook, or an agent or employee of the publisher, to provide prescribed data about the textbook to prospective purchasers. Specifically, this bill:

- 1) Requires each publisher, agent, or employee of a publisher of college textbooks to provide prospective purchasers at a California college or university with a complete list of products that are germane to the subject area of interest and offered for sale by the publisher and requires the publishers to provide the following for each of these products:
 - a) The wholesale price of the product;
 - b) The estimated length of time the publisher intends to keep the product on the market; and,
 - c) A complete list of all differences or changes made between the current edition and the previous edition of the textbook for each new edition of a product.
- 2) Requires the lists be made available to the prospective purchaser at the start of any sales interaction at a college or university whether in person, by telephone, or electronically and requires these lists be made available on the publisher's web site.
- 3) Includes a variety of terms and definitions, as specified.

EXISTING LAW: Numerous federal and state laws specify textbook information that publishers and higher education institutions must disclose.

The federal Higher Education Opportunity Act (HEOA) requires publishers, when providing information to faculty or others who select course materials at an institution of higher education receiving federal financial assistance, to include in writing:

- 1) The price at which the publisher would make the college textbook or supplemental material available to a campus bookstore and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public.
- 2) The copyright dates of the three previous editions of such college textbook, if any.
- 3) A description of the substantial content revisions made between the current edition of the college textbook or supplemental material and the previous edition, if any.

- 4) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound and, for each other format of the college textbook or supplemental material, the price at which the publisher makes such other format available to the public.

Federal HEOA law requires each institution of higher education to:

- 1) Disclose in the institution's Internet course schedule, for each course listed, the International Standard Book Number (ISBN) and retail price of required and recommended college textbooks and supplemental materials.
- 2) Make available to a college bookstore the most accurate information available regarding the course schedule and for each course offered the ISBN, retail price, number of students enrolled in the course, and the maximum student enrollment for the course.

Existing state law:

- 1) Requires textbook publishers, by January 1, 2020, to make the textbooks available, in whole or in part, for sale in an electronic format. The electronic version of any textbook must contain the same content as the printed version and may be copy-protected.
- 2) Requires the California State University and California Community Colleges, and encourages the University of California, to work with their respective academic senates to encourage faculty to give consideration to the least costly practices in assigning textbooks and to work with publishers and college bookstores.
- 3) Requires college bookstores to work with the academic senates of each campus to review the process and timelines involved in ordering and stocking textbooks and to create bundles and packages of instructional materials that are economically sound.
- 4) Urges textbook publishers to provide specific information to faculty and post that information on the company's website, give preference to supplements rather than producing a new edition and disclose the length of time the current edition is intended to be in production.
- 5) Establishes the College Textbook Transparency Act [AB 1548 (Solorio), Chapter 574, Statutes of 2007], which requires:
 - a) Textbook publishers to print on the cover or within each textbook a summary of the substantive content differences between the new and prior editions and the copyright date of the previous edition.
 - b) Textbook publishers to provide, upon a request by adopters, a list of the substantial content differences or changes made between the current edition initially published on or after January 1, 2010, and the previous edition of the textbook, including but not necessarily limited to, new chapters, additional eras of time, new themes, or new subject matter

- c) Each campus bookstore at any public college or university to post in its store or on its website a disclosure of its retail pricing policy on new and used textbooks.
- d) Each public college or university to encourage personnel responsible for selecting course materials (typically faculty) to place their orders with sufficient lead time to enable the bookstore to confirm the availability of the requested materials.

FISCAL EFFECT: This bill is keyed non-fiscal by Legislative Counsel.

COMMENTS: Background. Several reports throughout the last decade have noted the increasing cost of college textbooks. In 2004, the California Public Interest Research Group released a study that found the cost of textbooks has been rapidly increasing, from an average of \$642 per year in 1996-97 to \$898 per year in 2003-04. A report by the California State Auditor's Office in 2008 found that textbook costs represented 60% of the total cost to education for community college students, with an annual textbook cost of \$692 dollars for students taking a full-time course load.

The federal HEOA requires the Comptroller General of the United States to report by July 1, 2013, on the implementation of the requirements imposed upon institutions of higher education, college bookstores and publishers, and particularly to examine:

- 1) The availability of college textbook information on course schedules.
- 2) The provision of pricing information to faculty by publishers.
- 3) The use of bundled and unbundled material.
- 4) The implementation of the HEOA by institutions of higher education, including the costs and benefits to such institutions and to students.

Need for this bill. According to the author, "SB 1539 seeks to close the gap of AB 1548 (Solorio, 2007), which among other things requires the differences between the newest edition and the previous edition to be printed on the inside cover of the textbook. SB 1539 would require that this information be provided at the beginning of this transaction. Often times the textbook itself would not be given to the professor during the negotiation phase, which means the professor would not have the information needed to make a sound decision".

What does this bill do? State and federal laws passed since 2008 have worked to substantially increase the amount of information provided by publishers. As outlined above in Existing Law, publishers are required to give to faculty information about differences from prior editions and the price the textbook will be offered to the campus bookstore and to the public. However, publishers are not required to disclose the estimated length of time the product will be on the market, but publishers are already required to disclose to faculty the copyright dates of the three previous edition.

Thus, the provisions of this bill essentially restate existing law, except for: 1) the requirements that publishers provide to faculty a list of the all products and the anticipated length the product will be on the market and 2) the requirement that publishers list information about textbooks on their websites. The committee may wish to consider if existing law requiring the publisher to

disclose the previous three edition dates demonstrates a pattern that faculty can use to estimate how long an edition will be current.

Issues to consider.

- 1) Is it always possible for the publisher to know how long an edition will be on the market, and what are the consequences if the information is incorrect?
- 2) Does existing law requiring the publisher to disclose the previous three edition dates demonstrate a pattern that faculty can use to estimate how long an edition will be current?

Definition of products. This bill requires publishers to disclose to faculty all products offered for sale that are germane to the faculty's subject area of interest. This bill defines "product" to include each version of a textbook or set of textbooks, including a supplemental item whether or not the supplemental item is sold separately or together with a textbook. This bill also defines "product" to include digital formats of textbooks. Current law requires publishers to disclose to faculty if textbooks are available in other formats, such as paperback or unbound, but is silent about digital formats.

Arguments in support. The Community College League of California notes that the costs of textbooks are a significant burden for students and their families. The League adds that AB 1539 would provide faculty and students with more information about the textbooks they select and purchase, and that the provisions of this bill would assist students and faculty in making timely and cost-effective decisions.

Arguments in opposition. The American Association of Publishers (AAP) writes that, "the passage of related state (AB 1548 Solorio, the College Textbooks Transparency Act) and federal (Higher Education Opportunity Act (HEOA) laws, have already addressed the authors' concerns."

Opponents also argue that, "the bill would place an undue burden on publishers and send the wrong signal to business inside and outside of California. The bill would set a precedent that could damage the business climate of California by regulating methods of marketing, sales and product delivery. If the state were to require publishers to provide proprietary information, such as product life cycles, create unreasonable marketing requirements, and dictate their Web page content and layout, other businesses, such as the movies, computer games and IT, would reasonably fear that they too could come under damaging state controls. There are probably other states or perhaps the federal government that has placed content control on Web sites - content control that requires the business to place additional content on a prominent place on their web sites. However, we are not aware of any examples."

Prior legislation. SB 832 (Corbett) of 2007, which was vetoed by Governor Schwarzenegger, was nearly identical to this bill. The veto message read:

I am supportive of efforts to address the cost of college textbooks and share the concern that these education costs have an impact on the affordability of college for many students. However, this bill focuses strictly on textbook publisher policies and fails to recognize that the affordability of textbooks is a shared responsibility among publishers, college bookstores, and faculty members.

Therefore, instead of this bill, I am signing Assembly Bill 1548. Many of the same concepts in SB 832 are included in AB 1548, but AB 1548 recognizes the shared responsibility and attempts to address the issue in a more comprehensive manner.

REGISTERED SUPPORT / OPPOSITION:

Support

Associated Students of the University of California, Davis
California Community Colleges Chancellor's Office
California Faculty Association
California Public Interest Research Group
Community College League of California
Faculty Association of California Community Colleges
Kern Community College District
Los Rios Community College District
Rio Hondo Community College District
San Diego Community College District
University of California
West Kern Community College District

Opposition

Association of American Publishers, Inc.

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