

Date of Hearing: April 24, 2018

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2385 (Cunningham) – As Amended March 15, 2018

**SUBJECT:** Public postsecondary education: textbooks.

**SUMMARY:** Urges textbook publishers to post in a prominent location on the publishers' Internet Web sites, where it is readily available to college faculty, students, and departments, a detailed description of how the newest textbook edition differs from the previous edition, and authorizes the Assembly Committee on Higher Education (AHED) and the Senate Committee on Education to field complaints from students about textbooks for which publishers did not provide detailed descriptions of the differences from one edition to the next. Specifically, **this bill**:

- 1) Urges textbook publishers to post in a prominent location on the publishers' Internet Web sites, where it is readily available to college faculty, students, and departments, the following types of information:
  - a) A detailed description of how the newest edition differs from the previous edition, including an initial summary of content changes such as reordered, renamed, added, or deleted chapters.
  - b) Specifies that the description shall detail changes in each chapter, including but not limited to, additions, subtractions, and revisions.
  - c) The description shall apply to changes in text, illustrations, statistics, graphics, and any other component of the chapter.
- 2) Urges online textbook sellers to add to their Internet Web sites links to the publishers' descriptions as outlined in (1)(a-c) above.
- 3) Authorizes the AHED and the Senate Committee on Education to field complaints from students about textbooks for which the publishers' Internet Web sites do not contain the information as described in (1)(a-c) above.
- 4) Specifies that either committee, or both committees, may forward the most egregious cases to the Joint Legislative Audit Committee (JLAC) for investigation of those complaints.

**EXISTING LAW:**

*Federal law.* Requires, when a publisher provides a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education receiving Federal financial assistance with information regarding a college textbook or supplemental material, the publisher shall include, with any such information and in writing (which may include electronic communications), the following:

- a) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public;

- b) The copyright dates of the three previous editions of such college textbook, if any;
- c) 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; and,
- d) 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 would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes such other format of the college textbook or supplemental material available to the public (U. S. Code (U.S.C.) Title 20, Chapter 28, Subchapter I, Part C, Section 1015b).

*State law.*

- 1) Requires the California State University (CSU) Trustees and the California Community Colleges (CCC) Board of Governors, and requests the University of California (UC) Regents to work with the 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. Current law also urges textbook publishers to provide information to faculty when they are considering what textbooks to order, and to post information on the publishers' Web sites, including "an explanation of how the newest edition is different from previous editions." 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 (Education Code (EC) Section 66406).
- 2) Establishes the College Textbook Transparency Act, which, among others:
  - a) Defines "textbook" as a book that contains printed material and is intended for use as a source of study material for a class or group of students, a copy of which is expected to be available for the use of each of the students in that class or group, specifying that "textbook" does not include a novel;
  - b) Defines "adopter" as any faculty member or academic department or other adopting entity at an institution of higher education responsible for considering and choosing course materials to be used in connection with the accredited courses taught at that institution;
  - c) Encourages adopters to consider cost in the adoption of textbooks; and,
  - d) Requires each campus bookstore at any public postsecondary educational institution to post in its store or on its Internet Web site a disclosure of its retail pricing policy on new and used textbooks (EC Section 66406.7).
- 3) 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 electronic format (EC Section 66410).

- 4) Establishes the College Textbook Affordability Act, which, among others:
  - a) Encourages faculty to accelerate the adoption of lower cost, high-quality, open educational resources in order to reduce costs for college students;
  - b) Establishes the Open Educational Resources Adoption Incentive Program ; and,
  - c) Defines “open educational resources” as high-quality teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license, such as a Creative Commons license, that permits their free use and repurposing by others, and may include other resources that are legally available and free of cost to students (EC Section 67421, et seq.).

**FISCAL EFFECT:** This measure has been keyed non-fiscal by the Legislative Counsel.

**COMMENTS:** *Purpose of this measure.* According to the author, many college students struggle to afford their textbooks. The author states, "In some classes, they [students] could save money by buying an older, less expensive edition of a book. But they often lack enough information about differences between editions to be able to judge whether buying an older edition would reduce their ability to do well in a class; in response, students sometimes buy expensive new editions when a less expensive older edition would have served just as well."

This measure urges textbook publishers to provide (via their Web sites) detailed comparisons from the newest edition to the previous edition.

*Higher Education Opportunity Act (HEOA) Textbook Provision.* The HEOA Textbook Provision, in part, referenced in the "Existing Law" section of this analysis, went into effect on July 1, 2010.

The purpose of the HEOA Textbook Provision is to ensure that students have access to affordable course materials by decreasing costs to students and enhancing transparency and disclosure with respect to the selection, purchase, sale, and use of course materials. Additionally, the HEOA Textbook Provision seeks to encourage all of the involved parties, including faculty, students, administrators, institutions of higher education, bookstores, distributors, and publishers, to work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while supporting the academic freedom of faculty members to select high quality course materials for students.

*United States Government Accountability Office (GAO) Report.* The GAO issued a report, *College Textbooks: Students have Greater Access to Textbook Information*, in June 2013. The purpose of the report, in evaluating the effectiveness of the HEOA Textbook Provision, was two-fold: (1) address the efforts publishers have made to provide textbook information to faculty and make bundled materials available for sale individually, and how these practices have informed faculty selection of course materials; and (2) address the extent to which postsecondary schools have provided students and college bookstores access to textbook information, and what the resulting costs and benefits have been.

The GAO report found that, based on a review of a nationally representative sample of schools, an estimated 81 percent provided fall 2012 textbook information online, and stakeholders interviewed by GAO said implementation costs were manageable and students have benefited

from increased transparency. Additionally, GAO found that there was general consensus among students and student organizations interviewed by GAO; students expressed they benefited from timely and dependable textbook information and student organizations opined that they had sufficient information and time to comparison-shop for their course materials before each academic term.

To note, the GAO report makes no recommendations.

*Committee comments and amendments.* As currently drafted, this measure urges publishers to provide what appears to be even more information on their Web sites than what is currently required under federal law.

*Moving forward, the author may wish to work with the Legislative Counsel Bureau and effected stakeholders in order to ensure this measure can be implemented.*

As currently drafted, this measure authorizes the AHED and the Senate Committee on Education to field complaints from students about textbooks for which the publishers' Web sites do not contain specified information; and specifies that either committee, or both committees, may forward the most egregious cases to JLAC for investigation of those complaints.

The policy committees of the Legislature do not serve in the capacity of "fielding complaints", nor does JLAC conduct investigations. Even if the committees were responsible for fielding complaints, it is presently unclear how the complaint process would be structured.

*Committee Staff recommends, and the author has agreed to, the following amendment, striking this portion of the bill:*

66406. ~~(e) The Assembly Higher Education Committee and the Senate Committee on Education may field complaints from students about textbooks for which the publishers' Internet Web sites do not contain the information described in paragraph (2) of subdivision (b). Either committee, or both committees, may forward the most egregious cases to the Joint Legislative Audit Committee for investigation of those complaints.~~

## REGISTERED SUPPORT / OPPOSITION:

### Support

None on file.

### Opposition

Association of American Publishers

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