

## **BILL ANALYSIS**

C.S.H.B. 956  
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Higher Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law does not address the cost of college textbooks. College textbook costs are rising and students have no choice but to pay those prices. A recent Government Accountability Office report found that prices for new college textbooks have increased at more than twice the rate of inflation. The GAO also found that fulltime students spent an average of just under \$900 for textbooks and supplies in 2003-2004. For some students, the cost of books can be more than the cost of tuition and fees. Students often end up sharing books, copying necessary pages, using older editions, and doing whatever they can to save money. In fact, the National Association of College Stores found that 65% of college students didn't buy all required textbooks.

C.S.H.B 956 makes it a goal of the state to help college students purchase required textbooks and course materials at the lowest possible cost consistent with educational quality by facilitating competitive markets for college textbooks.

### **RULEMAKING AUTHORITY**

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Building and Procurement Commission in SECTION 1 of this bill and to the Texas Higher Education Coordinating Board in SECTION 1 of this bill.

### **ANALYSIS**

SECTION 1: Chapter 51 of the Education Code is amended by adding Subchapter I. Defines commission, coordinating board, faculty member, governing board, institution of higher education, open access publication, textbook, textbook bundle, and university-affiliated bookstore.

Requires faculty members at institutions of higher education to consider both cost and open access publications in selecting textbooks required for use in a course. Requires faculty members to know either the publisher's suggested retail price for the textbook or the approximate retail price that would be charged for the textbook by a university-affiliated bookstore that is affiliated with the institution of higher education offering the course in order to require or recommend a textbook. Prohibits faculty members from requiring students to buy any textbook that isn't going to be used in the course. Requires the Texas Higher Education Coordinating Board to monitor the cost of textbooks and recommend to the legislature ways to lower the costs of textbooks for Texas college students. Requires the Coordinating Board to work with institutions of higher education and others in order to facilitate the development and availability of open access publications.

Prohibits faculty members from requiring or recommending an edition of a textbook unless they have information that the publisher of the textbook will not release a later edition of the textbook until at least three years from the date of the initial release of the most recent edition. Faculty members can use books that are revised more frequently for a valid educational reason, cost reason, or another good cause with the approval of an appropriate department chair or another designated individual.

Requires institutions of higher education to compile a list of required textbooks for each course offered at the institution and post the list on the institution's Internet website. The list must

include the International Standard Book Number (ISBN) for each textbook. Requires each institution of higher education to post any revisions to the list as soon as possible after the information regarding the revision becomes available. The list must be posted on the institution's Internet website as soon as possible and not later than 30 days before the first day of classes of the semester or term for which the list is compiled. The bill also requires that the list be maintained until the last day on which courses may be added for the semester or term. The bill requires each institution of higher education to set deadlines for faculty submission of textbook lists. Institutions of higher education can meet this posting requirement by having a university-affiliated bookstore or another retailer post the list of required textbooks on the Internet.

Specifies that a faculty member cannot require, and a university-affiliated bookstore cannot sell, textbook bundles unless the publisher allows bookstores to return textbook bundles to the publisher on the same terms as the publisher allows the bookstore to return textbooks that are not part of a textbook bundle. Prohibits university-affiliated bookstores from selling instructional materials as a textbook bundle unless all items in the textbook bundle are required by a faculty member or the textbook bundle price is lower than the price of all of the required materials sold separately. The bill also prohibits faculty members from requiring a textbook bundle unless all of the items are going to be used in the course or the textbook bundle price is lower than the total price of materials that will be used in the course sold separately. Faculty members can require textbook bundles for a valid educational reason, cost reason, or another good cause with the approval of an appropriate department chairperson or another designated individual.

Prohibits institutions of higher education from restricting a retailer or other provider of textbooks from advertising or promoting on campus. Exceptions are made for locations where an institution of higher education already has restrictions on advertising and within a university-affiliated bookstore. If an institution of higher education along with a university-affiliated bookstore provides a way for students to use grant or loan money to purchase textbooks, or provides a way for a student to otherwise delay the payment of the costs of textbooks, the bill requires that those institutions, upon request and to the extent practicable, establish similar arrangements with other retailers that sell required textbooks. An institution of higher education that allows a student to purchase textbooks at a university-affiliated bookstore or another retailer using a debit or credit card with their grant or loan money complies with the section. Institutions of higher education may set reasonable conditions for retailers to meet but may not use such conditions to the advantage of the university-affiliated bookstore.

The Texas Building and Procurement Commission is required consult with institutions of higher education and others with expertise concerning sales and pricing of higher education textbooks and attempt to negotiate discount pricing of college textbooks with publishers of textbooks for courses offered at institutions of higher education. If an agreement is reached the parties are required to enter into a contract. The state is required to make a list of all textbooks on the state contract available on the Internet in advance of deadlines established for faculty submission of book lists for the upcoming semester. Textbooks on the state contract list must also meet the length of use and bundling requirements created by this subchapter. If faculty members assign textbooks from the state contract list, university-affiliated bookstores are required to sell the textbooks to students at prices that reflect the discount negotiated by the state. A faculty member satisfies other requirements of the subchapter by assigning textbooks from the state contract list. Faculty members are not prohibited from requiring textbooks that are not on the state contract list.

Makes it a Class B misdemeanor for a university or college trustee, administrator, or faculty member to accept a gift, favor, or service that could influence the selection textbooks. Clarifies that a gift, favor or service does not include staff development or training, sample copies of textbooks, or commissions received from the sale of one's own writing or work.

SECTION 2: Subchapter I, Chapter 51 of the Education Code, as added by this Act, other than Section 51.458 of that Subchapter, applies to textbooks used at public institutions of higher education beginning with the 2008 fall semester.

SECTION 3: Effective date.

## **EFFECTIVE DATE**

This Act takes effect September 1, 2007.

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 956 differs from the original bill by amending the definition of textbook, removing the definition of bundle, and adding the definition of textbook bundle. The substitute adds the word "coordinating" to the definition of the Texas Higher Education Coordinating Board. The substitute also adds definitions of faculty member and governing board.

The substitute specifies that a faculty member cannot require or recommend a textbook without knowing either the publisher's suggested retail price for the textbook or the approximate retail price that would be charged for the textbook by a university-affiliated bookstore that is affiliated with the institution of higher education offering the course.

The substitute adds that a faculty member is prohibited from requiring or recommending a textbook unless they have information that the publisher will not release a later edition of the textbook until at least three years from the date of the initial release of the most recent edition. The substitute adds another good cause to the list of reasons for an appropriate department chairperson to allow a professor to use a book updated more frequently than required.

The substitute changes the timetable that institutions of higher education have to post the list of required textbooks for each course offered at the institution. The substitute adds the requirement that each institution of higher education post any revisions to the list as soon as possible after the information regarding the revision becomes available. The substitute also adds that institutions of higher education can meet this posting requirement by having a university-affiliated bookstore or another retailer post the list of required textbooks on the Internet.

The substitute replaces the requirement that university-affiliated bookstores allow for the return of opened textbook bundles with a provision that a faculty member cannot require, and a university-affiliated bookstore cannot sell, textbook bundles unless the publisher allows bookstores to return opened textbook bundles. The substitute also adds that faculty members can require textbook bundles as long as they demonstrate a valid academic reason, cost reason, or another good cause and gain the approval of an appropriate department chairperson.

The substitute requires that if an institution of higher education, in conjunction with a university-affiliated bookstore, provides a way for a student to use grant or loan money to purchase textbooks, or provides another way for a student to delay the payment of the textbook costs, the institution must, upon request, establish similar arrangements with other retailers. The substitute refers to the entire section of code relating to the prohibition against certain extensions of credit by certain retail stores instead of a specific subsection of that section. The substitute also adds that an institution complies with the section by allowing a student to purchase textbooks at a university-affiliated bookstore or another retailer using a debit or credit card with their grant or loan money.

The substitute adds that the Building and Procurement Commission must consult with institutions of higher education and others with expertise concerning sales and pricing of higher education textbooks when attempting to negotiate discounted prices for textbooks. The substitute clarifies that the Building and Procurement Commission must negotiate prices for textbooks for courses offered by institutions of higher education. The substitute clarifies that a faculty member satisfies other requirements of the subchapter by assigning textbooks from the state contract list. The substitute also emphasizes that faculty members are not prohibited from requiring textbooks that are not on the state contract list.

The substitute replaces "college or university trustee" with "governing board" in the prohibitive section relating to accepting rebates on textbooks.

The substitute grants rulemaking authority to the Texas Higher Education Coordinating Board.

The substitute removes language relating to an offense occurring before the effective date.

The substitute removes the immediate effect clause.

The substitute adds that Subchapter I, Chapter 51 of the Education Code, as added by this Act, other than Section 51.458 of that Subchapter, applies to textbooks used at public institutions of higher education beginning with the 2008 fall semester.

The substitute also makes certain minor or nonsubstantive changes in format or content (including section headings and numbers) to the filed bill to conform to Legislative Council drafting guidelines.