

BILL ANALYSIS

C.S.H.B. 3382
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Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under the Braille Literacy Act of 1991, publishers were required to provide computerized files, in a timely manner, to public secondary schools for the production of Braille textbooks used by blind and visually impaired students. With the passage of the Braille Literacy Act, the average waiting period for these computerized files decreased from six months to six weeks within the first year, ensuring students with visual disabilities had the same access to textbooks as their seeing classmates. Currently, no Texas law requires publishers to send computerized textbook files to public institutions of higher education in a timely, efficient manner. Without such requirements, blind and visually impaired college students experience delays in receiving required textbook materials.

C.S.H.B. 3382 would require publishers to provide requested computerized instructional materials to public institutions of higher education in a timely and accessible manner for the production of alternative formats to be used by blind and visually impaired students.

RULEMAKING AUTHORITY

This bill expressly grants rulemaking authority to the Texas Higher Education Coordinating Board in SECTION 1 and SECTION 2 of this bill.

ANALYSIS

SECTION 1: Subchapter Z, Chapter 51 of the Education Code is amended by adding Section 51.970 relating to instructional material for blind and visually impaired students. Defines "blind or visually impaired student," "coordinating board," "institution of higher education," "instructional material," and "special instructional material." The requirement to provide special instructional materials only applies to material written and published for postsecondary education and materials that are required for a student's success in a higher education course.

Requires a publisher or manufacturer of printed instructional material to provide to the institution upon request computerized files not later than the 15th business day after the date of receipt request. Provides that a publisher or manufacturer may not impose any charge for providing the files.

Requires an institution requesting computerized files to certify that the student or the institution has purchased a printed copy of the instructional material. The certification must be signed by the person at the institution primarily responsible for disability services. Provides that a publisher or manufacturer may require an institution to include a signed statement by students agreeing to use the special instructional material only for the student's own educational purposes and not to copy or distribute the information to other students in a way that violates U.S. Copyright Law, 17 U.S.C. Section 101 et seq.

Requires that the computerized files of the printed instructional material must be in a format that contains all printed instructional material in the textbook, including any text, sidebar, table of contents, chapter headings and subheadings, footnotes, index, glossary and bibliography, except in situations where the publisher or manufacturer and the institution are unable to agree on an appropriate format. Requires computerized files be in a format compatible with commonly used Braille translation and speech synthesis software, and include any correction or revision available at the time the computerized files are provided.

Provides that if the publisher or manufacturer and the institution of higher education are not able to agree on a format required, the publisher or manufacturer, as applicable, shall provide the computerized files in American Standard Code for Information Interchange (ASCII) text or an equivalent text and in a format that contains as much of the material specified by that subsection as is practicable.

Authorizes the Texas Higher Education Coordinating Board (Coordinating Board) to impose an administrative penalty against a publisher or manufacturer who knowingly violates the requirements under this bill. Requires the Coordinating Board to hold a hearing to determine if a penalty should be imposed and the amount of the penalty. Sets criteria to be used by the Coordinating Board when determining the amount of a penalty, including the seriousness of the violation, any previous history of violation, the amount necessary to deter a future violation, any effort to correct the violation, and any other matter justice requires.

Requires the Coordinating Board, in consultation with an advocacy organization representing persons who are blind or visually impaired, to adopt rules of implementation including those that address the method for identifying instructional material required or essential for a student's success, procedures and standards for distributing computerized files, and any other matter considered necessary or appropriate for the administration of this section.

SECTION 2: This bill applies to requests for computerized files of printed instructional material for student use beginning with the 2008 spring semester and requires the Texas Higher Education Coordinating Board to adopt rules by November 1, 2007.

SECTION 3: Effective date.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 3382 makes a clarifying change to the definition of "special instructional material."
Removes the definition of "governing board" and "university system."

CSHB 3382 requires a publisher or manufacturer to provide computerized files not later than the 15th day after the date of receipt of the request, rather than as soon as practicable after the date of receipt of the request.

CSHB 3382 adds language that requires a student agree not to copy or distribute computerized files in a manner that violates U.S. Copyright Law, 17 U.S.C. Section 101 et seq. The original bill did not cite the U.S. Copyright Law.

CSHB 3382 eliminates subsections (h), (i), (j), (k), (l) from SECTION 1 of the original bill and makes conforming changes.

CSHB 3382 requires the Texas Higher Education Coordinating Board, in consultation with an advocacy organization representing persons who are blind or visually impaired, to adopt rules of implementation including methods for identifying instructional material, procedures and standards for distributing computerized files, and other matters relating to the administration of this section. HB 3382, as filed, did not require the Coordinating Board to consult with an advocacy group. In addition, the bill as filed, required the Coordinating Board to establish rules for determining the commercial availability of technology for the conversion of instructional material.