

1-1 By: Naishtat (Senate Sponsor - Uresti) H.B. No. 3382
1-2 (In the Senate - Received from the House May 11, 2007;
1-3 May 15, 2007, read first time and referred to Subcommittee on
1-4 Higher Education; May 21, 2007, reported adversely, with favorable
1-5 Committee Substitute from Committee on Education by the following
1-6 vote: Yeas 8, Nays 0; May 21, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3382 By: Williams

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to providing certain computerized instructional material
1-11 for blind and visually impaired students and students with dyslexia
1-12 who are enrolled at public institutions of higher education.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter Z, Chapter 51, Education Code, is
1-15 amended by adding Section 51.970 to read as follows:

1-16 Sec. 51.970. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY
1-17 IMPAIRED STUDENTS AND STUDENTS WITH DYSLEXIA. (a) In this
1-18 section:

1-19 (1) "Blind or visually impaired student" includes any
1-20 student whose visual acuity is impaired to the extent that the
1-21 student is unable to read the print in the standard printed
1-22 instructional material used in a course in which the student is
1-23 enrolled.

1-24 (2) "Coordinating board" means the Texas Higher
1-25 Education Coordinating Board.

1-26 (3) "Institution of higher education" has the meaning
1-27 assigned by Section 61.003.

1-28 (4) "Instructional material" means a book, system of
1-29 instructional material, or combination of a book and supplementary
1-30 instructional material that conveys information to or otherwise
1-31 contributes to the learning process of a student.

1-32 (5) "Special instructional material" means
1-33 instructional material in Braille, large print, audio format,
1-34 digital text, or any other medium or any apparatus that conveys
1-35 information to or otherwise contributes to the learning process of
1-36 a blind or visually impaired student or a student with dyslexia.

1-37 (b) This section applies only to instructional material
1-38 that is:

1-39 (1) written and published primarily for postsecondary
1-40 instruction of students; and

1-41 (2) required or essential for a student's success in a
1-42 course at an institution of higher education, as identified by the
1-43 instructor of the course for which the instructional material will
1-44 be used, in consultation with the person at the institution with
1-45 primary responsibility for services for students with disabilities
1-46 and in accordance with rules adopted under Subsection (i)(1).

1-47 (c) To assist the institution in producing special
1-48 instructional material, a publisher or manufacturer of printed
1-49 instructional material assigned by an institution of higher
1-50 education for use by students in connection with a course at the
1-51 institution shall provide to the institution on the institution's
1-52 request in accordance with this section computerized files based on
1-53 the printed instructional material. The publisher or manufacturer,
1-54 as applicable, shall provide the computerized files not later than
1-55 the 15th business day after the date of receipt of the request and
1-56 may not impose any charge for providing the files.

1-57 (d) A request made by an institution of higher education
1-58 under Subsection (c) must:

1-59 (1) certify that for each blind or visually impaired
1-60 student or student with dyslexia who will use specialized
1-61 instructional material based on the requested computerized files
1-62 for a course in which the student is enrolled at the institution,
1-63 either the institution or the student has purchased a printed copy

2-1 of the instructional material; and
 2-2 (2) be signed by the person at the institution with
 2-3 primary responsibility for services for students with
 2-4 disabilities.

2-5 (e) A publisher or manufacturer may require that a request
 2-6 made by an institution of higher education under Subsection (c)
 2-7 include from each student for whom the institution is making the
 2-8 request a signed statement in which the student agrees:

2-9 (1) to use the requested computerized files and
 2-10 related special instructional material only for the student's own
 2-11 educational purposes; and

2-12 (2) not to copy or otherwise distribute in a manner
 2-13 that violates 17 U.S.C. Section 101 et seq. the requested
 2-14 computerized files or the printed instructional material on which
 2-15 the requested computerized files are based.

2-16 (f) The computerized files of the printed instructional
 2-17 material must:

2-18 (1) be in a format that:

2-19 (A) except as provided by Subsection (g),
 2-20 contains all of the information that is in the printed
 2-21 instructional material, including any text, sidebar, table of
 2-22 contents, chapter headings, chapter subheadings, footnotes, index,
 2-23 glossary, and bibliography, and is approved by the publisher or
 2-24 manufacturer, as applicable, and the institution of higher
 2-25 education as a format that will contain that material; and

2-26 (B) is compatible with commonly used Braille
 2-27 translation and speech synthesis software; and

2-28 (2) include any correction or revision available at
 2-29 the time the computerized files are provided.

2-30 (g) If the publisher or manufacturer and the institution of
 2-31 higher education are not able to agree on a format as required by
 2-32 Subsection (f)(1)(A), the publisher or manufacturer, as
 2-33 applicable, shall provide the computerized files in American
 2-34 Standard Code for Information Interchange (ASCII) text or an
 2-35 equivalent text and in a format that contains as much of the
 2-36 material specified by that subsection as is practicable.

2-37 (h) The coordinating board may impose a reasonable
 2-38 administrative penalty against a publisher or manufacturer that
 2-39 knowingly violates this section. The coordinating board shall
 2-40 provide for a hearing to be held, in accordance with coordinating
 2-41 board rule, to determine whether a penalty is to be imposed and the
 2-42 amount of any penalty. The coordinating board shall base the amount
 2-43 of any penalty on:

2-44 (1) the seriousness of the violation;

2-45 (2) any history of a previous violation;

2-46 (3) the amount necessary to deter a future violation;

2-47 (4) any effort to correct the violation; and

2-48 (5) any other matter justice requires.

2-49 (i) The coordinating board, in consultation with an
 2-50 advocacy organization for persons who are blind or visually
 2-51 impaired and an advocacy organization for persons with dyslexia,
 2-52 shall adopt rules for administering this section, including rules
 2-53 that address:

2-54 (1) the method for identifying instructional material
 2-55 considered to be required or essential for a student's success in a
 2-56 course;

2-57 (2) the procedures and standards relating to
 2-58 distribution of computerized files under this section; and

2-59 (3) any other matter considered necessary or
 2-60 appropriate for the administration of this section.

2-61 SECTION 2. (a) Section 51.970, Education Code, as added by
 2-62 this Act, applies beginning with requests for computerized files of
 2-63 printed instructional material assigned for use by students in the
 2-64 2008 spring semester.

2-65 (b) Not later than November 1, 2007, the Texas Higher
 2-66 Education Coordinating Board shall adopt rules as required by
 2-67 Section 51.970(i), Education Code, as added by this Act.

2-68 SECTION 3. This Act takes effect immediately if it receives
 2-69 a vote of two-thirds of all the members elected to each house, as

3-1 provided by Section 39, Article III, Texas Constitution. If this
3-2 Act does not receive the vote necessary for immediate effect, this
3-3 Act takes effect September 1, 2007.

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