

BILL ANALYSIS

C.S.H.B. 537
By: Brown
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It is the opinion of interested parties that the increasing cost of textbooks and other necessary instructional materials is limiting access to higher education. These interested parties contend that the problem is exacerbated when institutions of higher education create what are considered by some to be monopolies through contracts with certain businesses to carry the institution's instructional materials. The parties note that legislation is needed to eliminate the ability of a public institution of higher education to discriminate against certain providers of instructional materials. C.S.H.B. 537 aims to address those matters by making statutory changes relating to the fair treatment of all providers of instructional materials to students enrolled at public institutions of higher education.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 537 amends the Education Code to prohibit an institution of higher education from granting preference to any provider of textbooks or other instructional materials in conducting activities of the institution during student orientation or as part of any program for repurchasing instructional materials from students. The bill provides for the meaning of "institution of higher education" by reference and defines "instructional materials" as any printed or computer-generated educational material, including textbooks, or any equipment or supplies that a student is required or recommended to use in connection with a course at an institution of higher education. The bill establishes that its provisions do not affect the terms of a contract entered into before the bill's effective date except that if the contract is renewed, modified, or extended on or after the bill's effective date the bill's provisions apply to the contract beginning on the date of renewal, modification, or extension.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 537 differs from the original by prohibiting an institution of higher education from granting preference to any provider of textbooks or other instructional materials in conducting activities of the institution during student orientation or as any part of any program for repurchasing instructional materials from students, whereas the original prohibits an institution of higher education from discriminating among providers of instructional materials in providing opportunities to participate in promotional activities related to the sale or repurchase of instructional materials to or from students of the institution during certain specified periods.

C.S.H.B. 537 omits provisions included in the original relating to the fair treatment of independent bookstores, including a definition of "university-affiliated bookstore," excepting definitions of "institution of higher education" and "instructional materials," which are retained in the substitute. The substitute omits a provision included in the original requiring each public institution of higher education to which the bill's provisions apply, as soon as practicable, to designate an officer or employee of the institution to ensure the institution's compliance with the bill's provisions.