BILL ANALYSIS

BACKGROUND AND PURPOSE

Interested parties suggest that more should be done to promote the use of open-source instructional materials by Texas schools and students. S.B. 1784 seeks to provide for a broader and more innovative use of such materials while also providing important protections for the state in the licensing of such materials.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

S.B. 1784 amends the Education Code to redefine "open-source instructional material" as teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits the free use, reuse, modification, and sharing of the resource with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.

S.B. 1784 authorizes a state-developed open-source instructional material to include content not owned by the state and for which preexisting rights may exist if the content is in the public domain, may be used under a limitation or exception to copyright law, or is licensed to the state for use in an open-source instructional material. The bill requires such a license to grant the state unlimited authority to modify, delete, combine, or add content and permit the free use and repurposing of the material by any person.

S.B. 1784 removes the requirement that the commissioner of education provide a license to each public school in Texas to use and reproduce state-developed open-source instructional material and the authorization for the commissioner to provide such a license to any other entity. The bill instead requires the commissioner, to encourage the use of state-developed open-source instructional materials by school districts and open-enrollment charter schools, to provide a license for a state-developed open-source instructional material that allows for the free use, reuse, modification, or sharing of the material by any person. The bill requires such a license to require that a user who reproduces a state-developed open-source instructional material comply with certain specified requirements, unless exempted by the commissioner; to provide that the commissioner may request that a user remove a copyright notice or attribution from the material and that a user must comply with the request to the extent reasonably practicable, as determined

by the commissioner; and to provide that the rights granted under the license to a user are automatically terminated if the user fails to comply with the terms of the license. The bill authorizes the commissioner to specify requirements to reinstate a user's rights under a license that has been terminated and reinstate a user's rights on completion of those requirements. The bill authorizes the commissioner to use a license commonly applied to an open education resource in implementing these provisions. The bill removes a requirement that the commissioner seek to recover certain costs in determining the cost of a license provided to certain entities.

S.B. 1784 establishes that a decision by the commissioner regarding the licensing of state-developed open-source instructional material is final and may not be appealed.

S.B. 1784 repeals Section 31.077, Education Code, relating to the requirement that the commissioner develop a schedule for the adoption of state-developed open-source instructional materials.

<u>EFFECTIVE DATE</u>

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.