

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB810 by Kolkhorst (Relating to the use of open educational resources.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB810, As Passed 2nd House: a negative impact of (\$300,000) through the biennium ending August 31, 2019.

In addition, administrative activities associated with development of a web portal would be a cost to be paid from existing instructional materials funding which would result in a decrease of instructional materials allotment funding to schools of \$2.5 million in the 2018-19 biennium, which decreases the biennial allotment by an estimated 32 cents per student.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$200,000)
2019	(\$100,000)
2020	(\$1,076,735)
2021	(\$1,575,485)
2022	(\$2,074,235)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
	1
2018	(\$200,000)
2019	(\$100,000)
2020	(\$1,076,735)
2021	(\$1,575,485)
2022	(\$2,074,235)

Fiscal Year	Change in Number of State Employees from FY 2017
2018	1.0
2019	1.0
2020	1.0
2021	1.0
2022	1.0

Fiscal Analysis

The bill would require the Higher Education Coordinating Board (Board) to establish and administer a grant program to encourage faculty at institutions of higher education to adopt and develop courses that use only open educational resources. Under the program, a faculty member of an institution of higher education could apply to the Board for a grant to adopt, modify or redesign a course at the institution to exclusively use open educational resources. Under provisions of the bill, the Board may not award a grant under the program to a faculty member of a postsecondary educational institution other than an institution of higher education. The Board would submit a report regarding the program to the governor, lieutenant governor, speaker of the house of representatives, and each standing legislative committee with primary jurisdiction over higher education by December 1 of each even-numbered year.

Under provisions of the bill, the Board may not use appropriated funds in an amount greater than \$200,000 for purposes of the program in the state fiscal biennium ending August 31, 2019. The Board may use any amount of other funds available for those purposes. This section would expire December 1, 2019.

The bill would require the Board, in collaboration with the Texas Education Agency, public institutions of higher education and school districts and textbook publishers, and representatives of the open educational resource community, to conduct a study to determine the feasibility of creating a state repository of open educational resources. The study would have to include: 1) methods for facilitating public access to open educational resources, 2) the resources needed to create the repository, and 3) any potential challenges in creating the repository. The Board would submit the report regarding the results of the study to the governor, lieutenant governor, speaker of the house of representatives, and each standing legislative committee with primary jurisdiction over higher education by September 1, 2018. Provisions of the bill regarding the feasibility study would expire September 1, 2019.

Under provisions of the bill, the Board may not use appropriated funds in an amount greater than \$100,000 for purposes of the study. The Board may use any amount of other available funds for purposes of the study and may solicit gifts, grants and donations for that purpose.

The bill would amend the Education Code to define an open education resource; replace open source instructional materials with open education resource instructional materials, rename the instructional materials fund the instructional materials and technology fund; and rename the instructional materials allotment the instructional materials and technology allotment. The bill would allow money in the state instructional materials and technology fund to pay the expenses associated with the instructional materials web portal developed under Section 31.081. The bill would allow school districts and open-enrollment charter schools to consider the use of open education resource instructional materials in selecting materials each year.

The bill would require the State Board of Education (SBOE) to consider a school district's need for

technology as well as instructional materials in reviewing and adopting instructional materials, and would allow the SBOE to limit the adoption of instructional materials to provide sufficient resources to purchase technology resources. The bill would require the SBOE to include information regarding open education resource instructional materials during the adoption cycle. The bill would require the SBOE to update the long-range plan for technology at least every five years.

The bill would require the Commissioner of Education to develop a web portal with information about all state-adopted instructional materials and other materials submitted for review by September 1, 2018 and to maintain the portal once developed. The bill would require the Commissioner use money in the state instructional materials fund, Fund 3, to pay any expense associated with the web portal and would make the web portal an allowable expense under the state instructional materials fund. The bill would require the web portal to contain certain information for each instructional material included in the portal; require the Commissioner to use a competitive process to contract for the development of the web portal; and require the Commissioner to contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the portal and would require the analysis to include certain elements.

The bill would require the Commissioner to include a repository of open education resources and other electronic instructional materials that school districts and open-enrollment charter schools may access at no cost in the web portal. The bill would allow a school district or open-enrollment charter school to consider open educational resources and other electronic instructional materials included in the repository in determining whether each student has instructional materials that cover all elements of the Texas Essential Knowledge and Skills as required by 31.004(a), Education Code.

The bill would take effect immediately if passed with necessary voting margins, or September 1, 2017.

Methodology

Under provisions of the bill the Higher Education Coordinating Board (Board) may not use appropriated funds in an amount greater than \$200,000 for purposes of the program in the state fiscal biennium ending August 31, 2019. In addition the Board may not use appropriated funds in an amount greater than \$100,000 for purposes of the study. As a result the costs associated with the new program and the study are limited to \$300,000 for the 2018-19 biennium as reflected in the table above. These funding limitations expire in fiscal year 2019.

Beginning in fiscal year 2020, it is assumed that grant awards would increase. Based on information provided by the Board regarding similar open educational resources programs in other states, it is assumed that the award amount under the new program would be \$2,500 per fiscal year. It is also assumed that six faculty at each participating public higher education institution would receive an award. Beginning in fiscal year 2020, it is estimated that 50 percent of the 133 eligible public institutions would participate in the program and the faculty at these institutions would receive grants totaling \$997,500. In fiscal year 2021, it is assumed that participation in the program would increase to 75 percent and the cost of the program would increase to \$1,496,250. By fiscal year 2022, it is assumed that 100 percent of eligible institutions would participate in the program at a total cost of \$1,995,000.

Administrative costs for the Board associated with the new program are estimated to be \$60,980 for salaries, wages and benefits for 1 FTE, and \$18,255 in other costs beginning in fiscal year

2018.

The Texas Education Agency (TEA) estimates that the bill would result in total costs of \$1.85 million in fiscal year 2018 with continuing costs of \$450,000 in subsequent years related to development of the web portal. These amounts would be paid from existing instructional materials funding.

Local Government Impact

TEA estimates that using funding from the state instructional materials fund for development and management of the web portal and associated review would result in a decrease in the biennial instructional materials allotment that each school district and charter school receives of approximately 32 cents per student. However, districts and schools could experience savings as a result of selecting open education resources from the web portal in lieu of other instructional materials.

Source Agencies: 306 Library & Archives Commission, 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

LBB Staff: UP, GO, THo, DEH, AW, GGo