

## **BILL ANALYSIS**

Senate Research Center  
87R4398 KJE-F

S.B. 1092  
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Higher Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Commercial textbook publishers and college bookstores are promoting automatic billing programs where the college or university automatically bills students for course materials, and access to homework systems, along with their tuition and fees.

Students have been surprised by these automatic charges when they get their tuition and fee bills. By then, it is too late to exercise any opt out rights that they may have had. This forces students to pay publisher prices to rent a time-limited digital copy, even if they could save money by getting a used book or sharing a book, or if they prefer to study from a print copy.

S.B. 1092 will make sure students and their parents are made aware of the charges they will be expected to pay, and how they can opt in or out of such charges. It also requires disclosure of how student data will be collected and used, and how students can opt out of such use.

If students are being billed for materials by credit hour, the bill requires these charges to be included up front as part of tuition, rather than being tacked on afterwards, unless the charge is only assessed if the student opts in. This makes sure there are no surprises.

The bill also requires that if an institution chooses to label courses as having "low-cost" materials, as many are doing, they must indicate how they are defining "low-cost."

The bill makes sure that all automatic billing agreements are open records, so students and policymakers can see if students are really benefitting from these arrangements.

As proposed, S.B. 1092 amends current law relating to the disclosure of certain information regarding textbooks and learning content management systems by certain institutions of higher education.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.452, Education Code, by adding Subsection (e), as follows:

(e) Requires an institution of higher education, if the institution designates in the institution's course schedule certain courses or sections of courses as having low textbook costs or a similar designation, to state or provide an Internet website link to the criteria for that designation in a prominent location in the schedule.

SECTION 2. Amends Subchapter I, Chapter 51, Education Code, by adding Section 51.456, as follows:

Sec. 51.456. AUTOMATIC CHARGES FOR TEXTBOOKS OR LEARNING CONTENT MANAGEMENT SYSTEMS. (a) Defines "institution of higher education," notwithstanding Section 51.451 (Definitions).

(b) Requires an institution of higher education to disclose to a student enrolled at the institution as provided by this section any automatic charges assessed by the institution or another entity to the student for textbooks or access to a learning content management system, including any charge for those items that is automatically assessed only to a student who qualifies for educational benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. Section 3301 et seq.) or any other federal law authorizing educational benefits for veterans.

(c) Requires an institution of higher education, for a charge for textbooks described by Subsection (b) that is assessed based on the cost of required or recommended textbooks for a certain course or course section in which the student is enrolled, to:

(1) in a prominent location in the institution's course schedule under Section 51.452 (Dissemination of Course Schedule and List of Required and Recommended Textbooks), state or provide an Internet website link to certain information relating to charges associated with, and electronic availability of, the textbook; and

(2) itemize the charge separately from any other charges assessed for the course or course section in the institution's billing to the student.

(d) Requires the institution of higher education, for a charge for access to a learning content management system described by Subsection (b) or for a charge for textbooks described by that subsection that is assessed on a basis not described by Subsection (c), to:

(1) except as provided by Subsection (f), include the amount of the charge in the institution's tuition under Section 54.015 (Billing and Notification for Tuition); and

(2) in a prominent location in any written or electronic agreement authorizing the charge, disclose if the charge is for access to a learning content management system or for a textbook in a primarily electronic format, the terms under which the system provider or textbook publisher collects and uses student data obtained through a student's use of the system or textbook; and any provision that allows the student to opt in or opt out of the charge.

(e) Provides that, notwithstanding any other provision of Title 3 (Higher Education) and except as provided by Subsection (f):

(1) a charge described by Subsection (c) is considered part of the institution of higher education's required fees for purposes of this title; and

(2) a charge described by Subsection (d) is considered part of the institution of higher education's tuition for purposes of this title.

(f) Provides that Subsections (d)(1) and (e) do not apply to a charge assessed only to students who opt in to paying the charge. Provides that a student is not considered to have opted in to paying the charge if:

(1) the textbooks or access to a learning content management system for which the charge is assessed is reasonably necessary for the student to participate in or successfully complete a course in which the student is enrolled; and

(2) for a charge for textbooks, the textbooks may only be legally obtained from the institution or certain vendors specified by the institution.

(g) Provides that any agreement between an institution of higher education and an entity under which the institution agrees to assess or allows the entity to assess a charge described by Subsection (b) to students enrolled at the institution is public information under Chapter 552 (Public Information), Government Code.

SECTION 3. Provides that this Act applies beginning with the 2021 fall semester.

SECTION 4. Effective date: upon passage or September 1, 2021.