

## **BILL ANALYSIS**

Senate Research Center  
87R7243 KJE-F

S.B. 1231  
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Higher Education  
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As Filed

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

Currently, "inclusive access" programs automatically add textbook charges to student's bills, either on a per-book or per-course basis. This forces students to rent required textbooks at publisher-specified prices, eliminating the used book market and book sharing, and guaranteeing 100 percent sell-through for vendors.

S.B. 1231 requires that an institution can only assess such charges, or agree to have such charges assessed by an outside entity (such as a publisher or bookstore), if the student opts in to the program, the program is substantially less expensive than comparable formats, the student is not required to opt in to the program to receive materials necessary to complete the course, and any such charges are fully disclosed in the course schedule and separately itemized from other course fees.

As proposed, S.B. 1231 amends current law relating to certain automatic charges for instructional materials assessed to students enrolled at a public institution 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 Subchapter E, Chapter 54, Education Code, by adding Section 54.5012, as follows:

Sec. 54.5012. CERTAIN AUTOMATIC CHARGES FOR INSTRUCTIONAL MATERIALS. (a) Defines "instructional material" and "open educational resource."

(b) Prohibits an institution of higher education from assessing, or entering into an agreement with an entity that allows the entity to assess, an automatic charge for instructional materials required or recommended for a course or course section to a student enrolled in that course or course section unless:

(1) the charge is significantly less than the price at which the student could acquire from any generally available source the same or substantially similar instructional materials in a similar format and condition and, if applicable, under similar rental or digital access terms;

(2) the instructional materials are made available to the student not later than the first day of the semester or term, if the student enrolls in the course or course section at least seven days before the first day of the semester or term, or the seventh day after enrollment in the course or course section;

(3) the institution assesses the charge only if the student opts in to the charge, and the instructional materials are not reasonably necessary for a

student to participate in or successfully complete the course or course section; and

(4) the listing for the course or course section in the institution's course schedule under Section 51.452 (Dissemination of Course Schedule and List of Required and Recommended Textbooks) states or provides an Internet website link to the full amount of the charge separately from any other charges assessed for the course or course section.

(c) Prohibits an institution of higher education from calculating the amount of a charge described by Subsection (b) on any basis other than the cost of the instructional materials unless:

(1) the institution adopts a policy to ensure that the charge is not assessed to a student for a course or course section for which all required instructional materials are generally available at no cost in at least one form to the student, such as an open educational resource or other materials generally available at no cost through the institution's library or to all students enrolled in the course or course section; and

(2) the amount of the charge, including any increase in the charge, is approved by a majority vote of the students voting in an election held for that purpose.

(d) Provides that an agreement between an institution of higher education and an entity under which the institution allows the entity to assess a charge described by Subsection (b) to students enrolled at the institution:

(1) is prohibited from providing for a discount or other incentive or a charge or other penalty based on the number or percentage of students to whom the charge is assessed, or courses or course sections for which the charge is assessed;

(2) is required to prohibit the entity from engaging in or authorizing a third party to engage in, except as specifically provided by the agreement, the sale, disclosure, licensing, use, retention, or other exploitation of any data collected under the agreement, including any personally identifiable information, location data, anonymized data, or materials derived from that data; and

(3) is public information under Chapter 552 (Public Information), Government Code, and is prohibited from being excepted from required disclosure under any applicable exceptions under Chapter 552.

(e) Prohibits an institution of higher education from denying, or entering into an agreement with an entity that allows the entity to deny, a student enrolled at the institution access to instructional materials for which a charge described by Subsection (b) has been or would otherwise be assessed to the student based on the student's refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of the student's data that may be obtained through the student's use of the instructional materials.

SECTION 2. (a) Provides that, except as provided by Subsection (b) of this section, Section 54.5012, Education Code, as added by this Act, applies beginning with the 2021 fall semester.

(b) Provides that the changes in law made by this Act apply only to an agreement entered into, extended, or renewed on or after September 1, 2021.

SECTION 3. Effective date: upon passage or September 1, 2021.