

By: Creighton

S.B. No. 1092

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure by public institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter I, Chapter 51, Education Code, is amended by adding Section 51.456 to read as follows:

Sec. 51.456. AUTOMATIC CHARGES FOR TEXTBOOKS OR DIGITAL COURSEWARE. (a) In this section:

(1) "Digital courseware" means a system of instructional content and software designed to support the delivery of all or part of a particular course. The term does not include a learning management platform or any other software system designed to provide support for courses generally.

(2) "Institution of higher education," notwithstanding Section 51.451, has the meaning assigned by Section 61.003.

(b) An institution of higher education shall disclose to a student enrolled at the institution as provided by this section an automatic charge for textbooks or access to digital courseware assessed by the institution or another entity to the student on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term, regardless of whether the charge is assessed on an opt-in, opt-out, or compulsory

1 basis. This subsection does not apply to a charge assessed for a
2 purchase initiated by the student separately from the enrollment
3 process at the institution, such as the purchase of a textbook at a
4 college bookstore that may be charged to the student's account at
5 the institution.

6 (c) For a charge described by Subsection (b) that is
7 assessed based on the cost of required or recommended textbooks or
8 access to digital courseware for a certain course or course section
9 in which the student is enrolled, the institution of higher
10 education shall:

11 (1) in a prominent location in the institution's
12 course schedule under Section 51.452, state or provide an Internet
13 website link to:

14 (A) the full amount of the charge;

15 (B) if the charge is for a textbook in a primarily
16 electronic format or for access to digital courseware, the terms
17 under which the publisher of the textbook or digital courseware
18 collects and uses student data obtained through a student's use of
19 the textbook or digital courseware; and

20 (C) any provision that allows the student to opt
21 in or opt out of the charge or the collection or use of the student's
22 data; and

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

26 (d) For a charge described by Subsection (b) that is
27 assessed on the basis of the number of semester credit hours or the

1 equivalent or the number of courses in which the student is enrolled
2 or on any other basis not described by Subsection (c), the
3 institution of higher education shall:

4 (1) except as provided by Subsection (e), include the
5 amount of the charge in the institution's:

6 (A) tuition under Section 54.015; or

7 (B) incidental fees under Section 54.504; and

8 (2) in a prominent location in any written or
9 electronic agreement authorizing the charge, disclose:

10 (A) if the charge is for a textbook in a primarily
11 electronic format or for access to digital courseware, the terms
12 under which the publisher of the textbook or digital courseware
13 collects and uses student data obtained through a student's use of
14 the textbook or digital courseware; and

15 (B) any provision that allows the student to opt
16 in or opt out of the charge or the collection or use of the student's
17 data.

18 (e) Notwithstanding Subsection (d)(1), an institution of
19 higher education is not required to include the amount of a charge
20 described by that subsection in the institution's tuition or
21 incidental fees if the charge is assessed to a student only on an
22 opt-in basis. For purposes of this subsection, a charge is not
23 considered to be assessed on an opt-in basis if:

24 (1) the textbooks or access to digital courseware for
25 which the charge is assessed is required for the student to earn the
26 maximum possible grade for a course in which the student is
27 enrolled; and

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

4 (f) An agreement between an institution of higher education
5 and an entity under which the institution assesses on the entity's
6 behalf or allows the entity to assess a charge described by
7 Subsection (b) to students enrolled at the institution:

8 (1) may not provide for a quota, charge, or other
9 penalty based on the number or percentage of:

10 (A) students to whom the charge is assessed; or

11 (B) courses or course sections for which the
12 charge is assessed; and

13 (2) is public information under Chapter 552,
14 Government Code.

15 (g) Any effort by an institution of higher education to
16 reduce the cost of textbooks or access to digital courseware for
17 students enrolled at the institution must also focus on maintaining
18 the quality of education and protecting academic freedom.

19 (h) This section may not be construed to prohibit an
20 institution of higher education from entering into an agreement
21 with an entity under which a charge for textbooks or access to
22 digital courseware is assessed to students enrolled at the
23 institution on an opt-in or opt-out basis.

24 SECTION 2. Section 54.504, Education Code, is amended by
25 adding Subsection (d) to read as follows:

26 (d) If a charge described by Section 51.456(b) is included
27 as part of an institution of higher education's incidental fees

1 under this section that are assessed to each student, or each
2 undergraduate student, enrolled at the institution who does not opt
3 out of the charge, the governing board of the institution shall
4 include a description of the amount of the charge in any notice of
5 the amount of the institution's tuition provided to current or
6 prospective students, the parents of current or prospective
7 students, or the public. The description must state or provide an
8 Internet website link to any provision that allows a student to opt
9 out of the charge.

10 SECTION 3. This Act applies beginning with the 2022 fall
11 semester.

12 SECTION 4. This Act takes effect September 1, 2021.