

- SUBJECT:** Requiring instructional material for blind and visually impaired students
- COMMITTEE:** Higher Education — committee substitute recommended
- VOTE:** 9 ayes — Morrison, McCall, F. Brown, Alonzo, Aycock, Giddings, D. Howard, Patrick, Rose
- 0 nays
- WITNESSES:** For — Tommy Craig, National Federation of the Blind of Texas;  
(*Registered, but did not testify:* Yolanda V. Garcia, Marilyn K. Monroe, National Federation of the Blind of Texas)
- Against — Edward McCoyd, Association of American Publishers
- On — Travis Irby, Services for Students with Disabilities UT-Austin;  
(*Registered, but did not testify:* Raymond Fischer, Texas Higher Education Coordinating Board; Tina Gilbert, Jennifer Maedgen, Services for Students with Disabilities UT-Austin)
- DIGEST:** CSHB 3382 would require publishers to provide computerized files to public higher education institutions for the production of instructional materials in Braille, large print, audio format, digital text for blind or visually impaired students. Publishers would have to comply no later than 15 business days after the material had been requested. The bill would set forth the procedures for requesting the computerized files.
- The computerized files would have to be free as long as the either the student or the institution had purchased a printed copy of the instructional materials. Copying the computerized files would be prohibited.
- The bill would apply only to instructional material that was written and published primarily for postsecondary instruction that was required or essential for coursework. The computerized files would have to be in a format that contained all of the information that was contained in the printed material, including text, sidebars, and table of contents. They would have to be as up to date as possible and compatible with commonly used Braille translation and speech synthesis software. If the publisher or manufacturer and the institution could not agree on the format, the

publisher or manufacturer would have to provide the files in American Standard Code for Information Interchange text or its equivalent.

The Texas Higher Education Coordinating Board (THECB) would be allowed to impose a reasonable administrative penalty against a publisher or manufacturer that knowingly violated the requirements of the bill. The bill would specify the procedure and criteria for determining whether a penalty should be imposed. The THECB would adopt rules for administering the provisions of the bill, including how to identify instructional materials considered required or essential for a student's coursework and the procedures and standards relating to distributions of the computerized files.

The bill would apply beginning in the 2008 Spring semester. No later than November 1, 2007, the THECB would have to adopt the necessary rules to implement the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

Blind and visually impaired college and university students in Texas universities and colleges often face significant delays in getting the computerized textbook files that are necessary to successfully complete their courses. CSHB 3382 would establish a reasonable and timely timeframe to ensure that blind and visually impaired students get their required textbook materials in a timely manner.

Each higher education institution has a student disability office, as required by the Americans with Disabilities Act, that makes the requests to publishers and manufacturers on behalf of the students. However, there currently is no specified timeframe for the publishers or manufacturers to send the files to the campus for the student. It can take two weeks or two months, and the delay denies access to textbook course materials for blind and visually impaired students that their sighted classmates do not experience. The THECB would have rulemaking authority and could address in a rule any exemptions that might be needed.

**OPPONENTS  
SAY:**

This bill would establish onerous requirements and possible penalties for publishers. Other states, including Maryland and Oregon, have enacted similar laws regarding e-text that offer exemptions for publishers under

certain circumstances. For instance, if the publisher does not have a certain textbook, or does not have or never had the digital text file for a certain textbook that should be grounds for an exemption. Further, if the author of the textbook withholds the electronic distribution rights, the publisher is prevented from distributing the book in an electronic format and doing so would be an infringement of copyright law. Also, if a book is out of print, the publisher should not be required to provide the electronic file of the book.

**NOTES:**

The companion bill, SB 1802 by Uresti, was reported favorably, as substituted, by the Senate Education Committee on April 30 and recommended for the Local and Uncontested Calendar.