HOUSE
RESEARCH
ORGANIZATION bill analysis   5/21/2017

SB 1784
L. Taylor
(Huberty)

SUBJECT: Revising state-developed open-source instructional material

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Gooden, K. King,
                Koop, Meyer, VanDeaver

                0 nays

                1 absent — Dutton

SENATE VOTE: On final passage, April 26 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Daniel Williamson, Rice University; (*Registered, but did not
                testify*: Brenda McDonald, Anderson-Shiro CISD; Scott Hochberg, Rice
                University; Luann Hughes, Temple Independent School District, Texas
                Computer Education Association; Jennifer Bergland, Texas Computer
                Education Association)

                Against — None

                On — (*Registered, but did not testify*: Von Byer and Monica Martinez,
                Texas Education Agency)

BACKGROUND: Education Code, sec. 31.002(1-a) defines open-source instructional
                material as electronic instructional material that is available for
                downloading from the internet at no charge to a student and without
                requiring the purchase of an unlock code, membership, or other access or
                use charge, except for a charge to order an optional printed copy of all or
                part of the instructional material.

DIGEST: SB 1784 would amend the Education Code, ch. 31 to adopt a new
                definition of "open-source instructional material" and modify licensing
                requirements in connection with such state-developed material.

                Open-source instructional material would be defined as teaching, learning,

and research resources that resided in the public domain or had been released under an intellectual property license that permitted the free use, reuse, modification, and sharing of the resource with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.

State-developed open-source instructional material could include content not owned by the state and for which preexisting rights could exist if the content:

- was in the public domain;
- could be used under a limitation or exception to copyright law, including a limitation under sec. 107 of the federal Copyright Act of 1976; or
- was licensed to the state for use in an open-source instructional material.

A license for state use would be required to grant the state unlimited authority to modify, delete, combine, or add content and permit the free use and repurposing of the material by any person.

To encourage the use of state-developed open-source instructional materials by school districts and open-enrollment charter schools, the Commissioner of Education would be required to provide a license that allowed for the free use, reuse, modification, or sharing of the material by any person. The bill would remove a requirement that the commissioner provide a license to each public school in the state to use and reproduce the materials.

The bill would specify license requirements for users who reproduce the material, including copyright notices, attributions, modifications, limitations, and terminations. The commissioner could use a license commonly applied to an open education resource in implementing the requirements. A decision of the commissioner on licensing would be final and could not be appealed.

The bill would remove a current requirement that the commissioner seek to recover the costs of developing, revising, and distributing state-developed open-source instructional materials. It would repeal the adoption schedule for materials contained in Education Code, sec. 31.077.

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, 2017.

SUPPORTERS
SAY:

SB 1784 would make it easier for the Texas Education Agency to expand availability of high-quality open-source instructional materials that are free for districts to use. This would save districts money on expensive textbooks while providing students with an enhanced online learning experience. Rice University won the initial contract to develop materials and expects to have seven textbooks available for students this fall in subjects including statistics and economics.

The bill would encourage the state to develop more open-source materials by allowing standard licensing language for open education resources. It would remove a requirement that TEA recover the costs of developing the instruction materials, which would not be necessary due to the savings that would come from more students using the open-source materials.

OPPONENTS
SAY:

SB 1784 would encourage the replacement of textbooks necessary for proper instruction with open-source online materials that may not be as reliable. The benefit of open education resources should be that they are within the public domain and free, and it is counterintuitive that the state would spend money on such materials. The bill could place an undue burden on rural and other school districts that do not have the technical infrastructure in place for online instructional materials.

NOTES:

The House-passed version of SB 1, the general appropriations act, included $10 million for state-developed open-source instructional materials, and the Senate-passed version of SB 1 included $20 million.