

BILL ANALYSIS

Senate Research Center
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S.B. 1802
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires textbook publishers to provide alternatives for blind and visually-impaired students in kindergarten through 12th grade, but this privilege is not extended to such students in college. While most publishers will furnish alternative electronic files without incident on the request of a university's disability services office, some do not furnish such files, and many who do often take months to respond, leaving the student without the needed texts often until the last weeks of a semester.

As proposed, S.B. 1802 requires textbook publishers to make electronic copies of textbooks and other assigned written materials promptly available to universities, if requested, for use by visually impaired students. The bill also prohibits publishers from charging an entity for the material and subjects publishers who fail to comply with the law to administrative penalties imposed by the Texas Higher Education Coordinating Board.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 (Section 51.970, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.970, as follows:

Sec. 51.970. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY IMPAIRED STUDENTS. (a) Defines "blind or visually impaired student," "coordinating board," "governing board," "institution of higher education" (institution), "university system," "instructional material," and "special instructional material."

(b) Provides that this section applies only to certain instructional material as set forth in this subsection.

(c) Requires a publisher or manufacturer of special printed instructional material assigned by an institution for use by students in connection with a course at the institution to provide to the institution, on its request in accordance with this section, computerized files based on the printed instructional material, in order to assist the institution in producing the material. Requires the publisher or manufacturer, as applicable, to provide the computerized files as soon as practicable after the date of receipt of the request and prohibits those entities from imposing any charge for that provision.

(d) Requires a request made by an institution under Subsection (c) to certify that, for each blind or visually impaired student who will use specialized instructional material based on the requested computerized files for a course in which the student is enrolled at the institution, either the institution or the student has purchased a printed copy of the instructional material, and be signed by the person at the institution with primary responsibility for services for disabled students.

(e) Authorizes a publisher or manufacturer to require that a request made by an institution under Subsection (c) include from the student for whom the institution

is making the request a signed statement in which the student agrees to certain requirements.

(f) Requires the computerized files of the printed instructional material to be in a certain format and include corrections or revisions as set forth in this subsection.

(g) Requires the publisher or manufacturer, as applicable, if unable to agree on a format as required by Subsection (f)(1)(A) with the institution, to provide the computerized files in American Standard Code for Information Interchange (ASCII) text or an equivalent text and in a format that contains as much of the material specified by that subsection as is practicable.

(h) Provides that the computerized files of the printed instructional material are not required to contain nontextual elements such as pictures, illustrations, graphs, or charts.

(i) Requires an institution, if it permits a student's direct use of the computerized files provided under this section, to provide for the files to be protected against copying or take other reasonable precautions to ensure that the student does not copy or otherwise distribute the files in a manner that violates 17 U.S.C. Section 101 et seq (Copyrights).

(j) Requires a publisher or manufacturer, in the same manner as the publisher or manufacturer is required under this section to provide computerized files of printed instructional material, to provide to an institution according to the procedures required by this section computerized files as set forth in this subsection.

(k) Authorizes the governing board of a university system to establish one or more centers for processing requests under this section by the system's component institutions. Requires, if a governing board establishes such a center, a component institution of that university system to submit a request under this section to the center, the center to submit that request to the publisher or manufacturer, and the publisher or manufacturer, as applicable, to respond only to those requests under this section made through a center, notwithstanding any other provision of this section. Requires, if a governing board establishes more than one center, each of those centers to coordinate requests made under this section. Requires, if a publisher or manufacturer has responded to a request by a center, a subsequent request for the same computerized files made by a component institution served by the center to be satisfied by the center.

(l) Provides that this section does not prohibit an institution from assisting a blind or visually impaired student by using requested computerized files solely to transcribe printed instructional material into Braille or other special instructional material or sharing that Braille transcription or other special instructional material with other blind and visually impaired students enrolled at the institution, or authorize any use of instructional material that would constitute an infringement of copyright under 17 U.S.C. Section 101 et seq.

(m) Authorizes the Texas Higher Education Coordinating Board (THECB) to impose a reasonable administrative penalty against a publisher or manufacturer who knowingly violates this section. Requires THECB to provide for a hearing to be held, in accordance with THECB rule, to determine whether a penalty is to be imposed and the amount of any penalty. Requires THECB to base the amount of any penalty on certain considerations.

(n) Requires THECB to adopt rules for administering this section, including rules that address certain matters as set forth in this subsection.

SECTION 2. (a) Provides that Section 51.970, Education Code, as added by this Act, applies beginning with requests for computerized files of printed instructional material assigned for use by students in the 2008 spring semester.

(b) Requires THECB to adopt rules as required by Section 51.970(n), Education Code, as added by this Act, not later than November 1, 2007.

SECTION 3. Effective date: upon passage or September 1, 2007.