

BILL ANALYSIS

C.S.H.B. 2488
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The rapid growth of the Internet has revolutionized the publishing industry by providing a fast, low-cost platform for the publication, adaptation, and sharing of printed materials online. Open-source licenses, which remove traditional copyright restrictions from written materials and allow such materials to be published and shared for free online, represent one innovation that could have a positive impact on the distribution of curricular materials.

C.S.H.B. 2488 statutorily recognizes open-source technology for the purpose of publishing secondary-level textbooks. The bill offers a cost-effective method of getting up-to-date information into the hands of students while maintaining the formal review and adoption process by the State Board of Education. The bill allows universities to submit faculty-edited, secondary-level open-source textbooks for placement on conforming and nonconforming lists and to certify that high school students who successfully complete courses based on such texts will be adequately prepared for postsecondary-level course work without remediation.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2488 amends the Education Code to include an open-source textbook in the definition of "electronic textbook." The bill defines "open-source textbook" to mean an electronic textbook that is available for downloading from the Internet at no charge to a student 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 textbook.

C.S.H.B. 2488 defines "eligible institution" to mean a public, private, or independent college or university in Texas that spends at least \$75 million per year on research as reported to the Texas Higher Education Coordinating Board, or, by reference, the Lamar Institute of Technology or the Texas State Technical College System. The bill requires the State Board of Education (SBOE) to place an open-source textbook for a secondary-level course submitted for adoption by an eligible institution on a conforming or nonconforming list if the textbook is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the textbook, the eligible institution identifies each contributing author, the appropriate department of the eligible institution certifies the textbook for accuracy, and the eligible institution determines that the textbook qualifies for placement on either the conforming or nonconforming list and certifies that, for a textbook for a senior-level course, a student who successfully completes a course based on the textbook will be prepared, without remediation, for entry into the eligible institution's freshmen-level course in that subject, or, for a textbook for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the textbook will be prepared for entry into the senior-level course.

C.S.H.B. 2488 specifies that the bill's provisions governing the adoption of a textbook do not prohibit an eligible institution from submitting a textbook for placement on a conforming or nonconforming list through any other adoption process under provisions governing textbooks in public education.

C.S.H.B. 2488 exempts an open-source textbook from the requirement that the SBOE execute a contract for the purchase of each adopted textbook and the purchase or licensing of each adopted electronic textbook.

C.S.H.B. 2488 authorizes the SBOE to execute a contract for the printing of an open-source textbook listed on the conforming or nonconforming list. The bill requires the contract to allow a school district to requisition printed copies of an open-source textbook as provided by law.

C.S.H.B. 2488 makes provisions requiring publishers to provide each school district and open-enrollment charter school with textbook information and, if requested, a sample copy inapplicable to an open-source textbook.

C.S.H.B. 2488 requires a school district or open-enrollment charter school that selects an open-source textbook to requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the district or school provides to each student electronic access to the textbook at no cost to the student or printed copies of the portion of the textbook that will be used in the course.

C.S.H.B. 2488 authorizes a school district or open-enrollment charter school to order a replacement for a printed copy of an open-source textbook directly from any source. The bill excludes a printed copy of an open-source textbook from a provision requiring each textbook, other than an electronic textbook, to be covered by the student under the direction of the teacher. The bill specifies that at the end of the school year for which an open-source textbook that a school district or open-enrollment charter school does not intend to use for another student is distributed, the printed copy of the open-source textbook becomes the property of the student to whom it is distributed.

C.S.H.B. 2488 provides that provisions governing the distribution and handling of textbooks do not apply to an electronic copy of an open-source textbook.

C.S.H.B. 2488 excludes an open-source textbook, along with online textbooks and online textbook components, from requirements imposed on a publisher or manufacturer of textbooks regarding the maintenance of a textbook depository in Texas and includes an open-source textbook, along with the online textbooks and online textbook components, in a requirement imposed on a publisher or manufacturer to deliver such instructional material to a school district or open-enrollment charter school without a delivery charge to the school district, open-enrollment charter school, or the State of Texas.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2488 differs from the original by defining "eligible institution" for purposes of the added provision regarding the development and submittal for State Board of Education placement on a conforming or nonconforming textbook list of open-source textbooks by certain institutions of higher education, whereas the original applies the same criteria for eligibility but neither defines nor uses the term.

C.S.H.B. 2488 differs from the original by specifying that the printed copy of an open-source textbook becomes the property of the student to whom it is distributed at the end of the school year for which the open-source textbook is distributed if the school district or open-enrollment charter school does not intend to use that book for another student, whereas the original specifies that a printed copy of an open-source textbook need not be returned if the school district or open-enrollment charter school does not intend to use the textbook for another student.

C.S.H.B. 2488 differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.