

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 810  
By: Kolkhorst  
Higher Education  
4/12/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2012, the American Enterprise Institute estimated that college textbook prices increased by 812 percent between 1978 and 2012. In the same period of time, the Consumer Price Index (CPI) rose by 250 percent. CollegeBoard estimates that the average student attending a public four-year in-state on-campus university spent \$1,255 on books and supplies during the 2014-2015 academic year.

According to the National Conference of State Legislatures, over 15 states have enacted laws addressing college textbook costs since 2007. Some states require publishers to offer bundled and unbundled versions of textbooks, or provide more information to faculty about the changes made to textbooks from one edition to the next. Other states have required instructors to consider lower-cost options when choosing course materials, and have urged colleges and universities to implement options that will reduce costs. Georgia addressed rising textbook costs at the University of Georgia system by encouraging the adoption of open educational resources (OER). Recognizing the costs associated with creating a new curriculum based on OER, the system began to give grants to professors who wished to use OER material in their classes. To help facilitate the proliferation of OER oriented courses, they also established an OER repository for students and professors.

S.B. 810 would require that the Texas Higher Education Coordinating Board (THECB) establish and administer a grant program for professors who wish to use OER material in their classrooms, but cannot afford to change their curriculum. THECB would be required to report to the legislature how many professors applied for the grant, what courses the grant was used for, and the financial savings to students for using OER material. In addition, the bill would require the Texas State Library and Archives Commission (TSLAC) to conduct a study as to the feasibility of hosting an OER repository at TSLAC. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 810 amends current law relating to the use of open educational resources.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 5 (Section 61.0668, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.451, Education Code, by adding Subdivision (4-a), to define "open educational resource."

SECTION 2. Amends Section 51.452, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

- (a) Requires each institution of higher education (IHE) to, with respect to each course, include with the course schedule a list of the required and recommended textbooks that specifies, to the extent practicable, certain information, including whether the textbook is an open educational resource (OER).

(d) Requires an IHE or a college bookstore, if the IHE or college bookstore publishes a textbook list with a course schedule on an Internet website that provides a search function, to ensure that the search function permits a search based on whether a course or section of a course requires or recommends only OERs or provide a searchable list of courses and sections of courses that require or recommend only OER.

SECTION 3. Amends Section 51.453, Education Code, as follows:

Sec. 51.453. TEXTBOOK ASSISTANCE INFORMATION FOR STUDENTS. Requires an IHE, to the extent practicable, to make reasonable efforts to disseminate to its students information regarding:

- (1) and (2) makes no changes to these subdivisions;
- (3) makes a nonsubstantive change;
- (4) the availability of courses and sections of courses that require or recommend only OERs; and
- (5) creates Subdivision (5) from existing text and make no further changes to this subdivision.

SECTION 4. Amends Section 51.454(a), Education Code, to require a textbook publisher, when a publisher provides information regarding a textbook or supplemental material other than an OER to a faculty member or other person in charge of selecting course materials at an IHE, to also provide to the faculty member or other person certain written information.

SECTION 5. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.0668, as follows:

Sec. 61.0668. OPEN EDUCATIONAL RESOURCES GRANT PROGRAM. (a) Defines "open educational resource."

- (b) Requires the Texas Higher Education Coordinating Board (THECB) to establish and administer a grant program to encourage faculty at IHEs to adopt, modify, redesign, or develop courses that use only OERs.
- (c) Authorizes a faculty member of an IHE, under the program, to apply to THECB for a grant to adopt, modify, redesign, or develop one or more courses at the IHE to exclusively use OERs.
- (d) Requires THECB, for each course identified in an application for a grant under this section, to select at least three persons qualified to review the curriculum of the course, as determined by THECB, to evaluate the application with respect to that course. Requires the reviewing persons, if the application is rejected, to provide feedback on the application to the faculty member. Authorizes the feedback to be provided anonymously.
- (e) Requires a faculty member who receives a grant under the program to ensure that any OER used in each applicable course is provided to a student enrolled in the course at no cost other than the cost of printing.
- (f) Requires a faculty member who receives a grant under the program to submit to THECB for each of the four semesters immediately following the implementation of each applicable course a report that includes certain information.
- (g) Authorizes a faculty member who receives a grant under the program to continue to submit a report described by Subsection (f) for a semester that occurs after the faculty member's duty to submit a report under that subsection has

expired. Authorizes THECB to consider a faculty member's failure to submit additional reports in evaluating a subsequent grant application submitted by the faculty member.

(h) Provides that a faculty member who is no longer employed by an IHE forfeits any grant awarded under the program.

(i) Prohibits THECB from awarding a grant under the program to a faculty member of a postsecondary educational institution other than an IHE.

(j) Requires THECB, not later than December 1 of each even-numbered year, to submit to the governor, lieutenant governor, speaker of the house of representatives, and each standing legislative committee with primary jurisdiction over higher education a report that contains certain information.

(k) Authorizes THECB to solicit and accept gifts, grants, and donations from any public or private source for purposes of the program.

(l) Requires THECB to adopt rules for the administration of the program.

(m) Provides that this section expires September 1, 2021.

(n) Prohibits THECB from using appropriated funds in an amount greater than \$200,000 for purposes of the program in the state fiscal biennium ending August 31, 2019. Authorizes THECB to use any amount of other funds available for those purposes. Provides that this subsection expires December 1, 2019.

SECTION 6. Amends Subchapter A, Chapter 441, Government Code, by adding Section 441.021, as follows:

Sec. 441.021. FEASIBILITY STUDY ON STATE REPOSITORY OF OPEN EDUCATIONAL RESOURCES. (a) Defines "open educational resource."

(b) Requires the Texas State Library and Archives Commission (TSLAC) to conduct a study to determine the feasibility of creating a state repository of OERs. Requires that the study consider methods for facilitating public access to OERs, the resources needed to create the repository, and any potential challenges in creating the repository.

(c) Requires TSLAC, in conducting the study, to collaborate with relevant state agencies and other stakeholders, including THECB, the Texas Education Agency, and representatives of public IHEs and school districts.

(d) Requires TSLAC, not later than September 1, 2018, to submit to the governor, lieutenant governor, speaker of the house of representatives, and each standing legislative committee with primary jurisdiction over higher education a report on the results of the study and any recommendations for legislative or other action. Requires the report to include certain information.

(e) Prohibits TSLAC from using appropriated funds in an amount greater than \$100,000 for purposes of the study. Authorizes TSLAC to use any amount of other available funds for purposes of the study and to solicit and accept gifts, grants, and donations for that purpose.

(f) Provides that this section expires September 1, 2019.

SECTION 7. Provides that Sections 51.451, 51.452, 51.453, and 51.454, Education Code, as amended by this Act, apply beginning with the 2018 spring semester.

SECTION 8. (a) Requires THECB, as soon as practicable after the effective date of this Act, to adopt rules for the administration of the OERs grant program under Section 61.0668, Education Code, as added by this Act.

(b) Requires THECB, notwithstanding Section 61.0668(i), Education Code, as added by this Act, to submit its initial report required under that section not later than December 1, 2019.

SECTION 9. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

SECTION 10. Effective date: upon passage or September 1, 2017.