

Assembly Bill No. 1548

CHAPTER 574

An act to add Section 66406.7 to the Education Code, relating to public postsecondary education.

[Approved by Governor October 13, 2007. Filed with
Secretary of State October 13, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, Solorio. Public postsecondary education: College Textbook Transparency Act.

(1) The Donahoe Higher Education Act authorizes the activities of the 4 segments of the postsecondary education system in the state. These segments include the 3 public postsecondary segments: the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Private and independent postsecondary educational institutions constitute the other segment.

Provisions of the Donahoe Higher Education Act apply to the University of California only to the extent that the regents act, by resolution, to make them applicable.

Existing law urges textbook publishers to take specified actions aimed at reducing the amounts that students currently pay for textbooks. Existing law requires the Trustees of the California State University and the Board of Governors of the California Community Colleges, and requests the Regents of the University of California, among other things, to work with the academic senates of each respective segment to encourage faculty to give consideration to the least costly practices in assigning textbooks, to encourage faculty to disclose to students how new editions of textbooks are different from previous editions and the cost to students for textbooks selected, to review procedures for faculty to inform college and university bookstores of textbook selections, and to encourage faculty to work closely with publishers and college and university bookstores in creating bundles and packages that are economically sound and deliver cost savings to students.

Existing law expresses the intent of the Legislature to encourage private colleges and universities to work with their respective academic senates, and to encourage faculty to consider practices in selecting textbooks that will result in the lowest costs to students.

This bill would add the College Textbook Transparency Act to the Donahoe Higher Education Act.

This bill would require the publisher, as defined, of a textbook to print certain information on the outer cover of, or within, a textbook, as defined, on or after January 1, 2010.

This bill would require, beginning January 1, 2010, a publisher, or agent or employee of a publisher, of textbooks intended for use at a postsecondary educational institution to respond to a request from an adopter, as defined, for specified information.

This bill would require a public postsecondary educational institution to encourage adopters, with course material selection responsibilities to place their orders with sufficient lead time, whenever possible, to enable the university-managed bookstore or contract-managed bookstore to confirm the availability of the requested materials. The bill, except as specified, would prohibit an adopter at an institution of higher education from demanding or receiving anything of value, including the donation of equipment or goods, any payment, loan, advance, or deposit of money, present or promised, for adopting specific course materials required for coursework or instruction.

This bill would prohibit a publisher or campus bookstore from soliciting faculty for the purpose of the sale of instructor copies or complimentary teacher editions of textbooks that have been provided by a publisher at no charge to a faculty member or other employee.

Pursuant to existing law, the bill would apply to the University of California only to the extent that the regents act, by resolution, to make these provisions applicable. Because the bill would impose new duties on community college districts, the bill would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 66406.7 is added to the Education Code, to read: 66406.7. (a) This section shall be known and may be cited as the College Textbook Transparency Act.

(b) As used in this section, the following terms have the following meanings:

(1) “Adopter” means any faculty member or academic department or other adopting entity at an institution of higher education responsible for considering and choosing course materials to be used in connection with the accredited courses taught at that institution.

(2) “Complimentary copies” or “review course materials” only includes books that in all appearances are the same as the regular student edition of

the textbook, and contain no material other than that found in the regular student edition of the textbook.

(3) “Instructor copies” or “complimentary teacher editions” means books with information that is meant to be for the exclusive use of teachers and not for students. These books contain answers and solutions, test questions, and pedagogical techniques, and are often labeled instructor’s edition or instructor’s manuals.

(4) “New edition of textbook” means a subsequent version of an earlier standard textbook. A standard textbook is the primary, full, and unabridged edition of a textbook. An abridged, alternate format, or alternate version of a standard textbook shall not be considered a new edition.

(5) “Publisher” means any publishing house, publishing firm, or publishing company that publishes textbooks or other course materials, specifically designed for postsecondary instruction.

(6) “Textbook” means a book that contains printed material and is intended for use as a source of study material for a class or group of students, a copy of which is expected to be available for the use of each of the students in that class or group. “Textbook” does not include a novel.

(7) “Unsolicited complimentary copies” means all items described in paragraph (2) and that were not requested by faculty but are sent by the publisher unsolicited by a faculty or staff member.

(c) (1) Adopters are encouraged to consider cost in the adoption of textbooks.

(2) Publishers shall facilitate the work done by adopters by providing transparency in the adoption process and shall be responsive in a timely manner to requests for information on textbook cost and content, and the full range of options.

(d) (1) On or after January 1, 2010, the publisher of a textbook shall print on the outer cover of, or within, the standard textbook, both of the following items:

(A) For any new editions of textbooks initially published on or after January 1, 2010, a summary of the substantive content differences between the new edition and the prior edition.

(B) The copyright date of the previous edition of the textbook.

(2) For instructor copies or complimentary teacher editions, it shall be noted on the exterior of the book that the book is an instructor’s copy and is not for resale.

(e) (1) A publisher, or agent or employee of a publisher, of textbooks intended for use at a postsecondary educational institution shall respond to a request from an adopter for any of the following:

(A) A list of the products offered for sale by that publisher that are relevant to the needs and interests of adopters.

(B) The price at which the new book is available from the publisher.

(C) The copyright date of any prior edition of a textbook, if available.

(D) A list of the substantial content differences or changes made between the current edition initially published on or after January 1, 2010, and the

previous edition of the textbook, including, but not necessarily limited to, new chapters, additional eras of time, new themes, or new subject matter.

(2) The information described in this subdivision shall be available in print or electronically to the adopter.

(f) Each campus bookstore at any public postsecondary educational institution shall post in its store or on its Internet Web site a disclosure of its retail pricing policy on new and used textbooks.

(g) Each public postsecondary educational institution shall encourage adopters with course material selection responsibilities to place their orders with sufficient lead time, whenever possible, to enable the university-managed bookstore or contract-managed bookstore to confirm the availability of the requested materials.

(h) This section does not limit the authority of faculty over decisions relating to the selection of textbooks.

(i) An adopter at an institution of higher education shall not demand or receive anything of value, including the donation of equipment or goods, any payment, loan, advance, or deposit of money, present or promised, for adopting specific course materials required for coursework or instruction, except that an employee may receive any of the following:

(1) Complimentary copies, review course materials, or instructor copies. The adopters shall not sell instructor copies.

(2) Royalties or other compensation from sales of course materials that include the instructor's writing or other work. Receipt of these royalties or compensation is subject to the employer's standing policies or collective bargaining agreements relating to employee conflicts of interest.

(3) Honoraria for academic peer review of course materials. Receipt of honoraria is subject to the employer's standing policies relating to employee conflicts of interest.

(4) Training in the use of course materials and course technologies. Payment for travel and lodging and or meals shall be subject to the employer's standing policies relating to employee conflicts of interest and compensation.

(j) A publisher or campus bookstore shall not solicit faculty for the purpose of the sale of instructor copies or complimentary teachers editions of textbooks that have been provided by a publisher at no charge to a faculty member or other employee. This subdivision does not apply to unsolicited complimentary copies.

(k) A campus bookstore shall not engage in any trade of any course material marked, or otherwise identified, as instructor copies or complementary teachers editions of textbooks.

(l) Any self-published textbook by an instructor for use with that instructor's class shall be exempt from this section, if the instructor discloses the publishing and use of those materials to his or her employer institution.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and

school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O