

AMENDED IN ASSEMBLY OCTOBER 26, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 317

Introduced by Assembly Member Solorio

February 18, 2009

An act to amend Section 66406.7 of the Education Code, relating to college textbooks. An act to add Section 46011.3 to the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Solorio. ~~Postsecondary education: college textbooks.~~ *School attendance.*

Existing law establishes the system of public elementary and secondary schools in this state, as well as the statutory scheme for the provision of funding for this system. State apportionments to school districts, the amounts of which are computed based on the average daily attendance of pupils in the schools operated by those districts, among other factors, constitute a major source of school funding. Existing law generally requires that the total days of attendance of a pupil at the schools and classes maintained by a school district is the number of days school was actually taught for not less than the minimum schooldays during the fiscal year less the sum of his or her absences.

This bill would provide that pupil absences certified as related to the H1N1 (2009) influenza virus, in accordance with the procedures established pursuant to the bill, not be deemed as absences under this provision and not affect the calculation of state apportionments. The bill would further authorize the governing board of a school district in

which any public elementary or secondary school that has 50 or more pupils who have missed at least one day of school because of the H1N1 virus apply to the Superintendent for a waiver of qualifying pupil absences for apportionment purposes.

The bill would require the Superintendent of Public Instruction to adopt, and inform school districts about, guidelines and procedures to govern the processing of waiver applications submitted by school districts and the certification of pupil absences in applicant school districts as related to the H1N1 (2009) influenza virus.

~~(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, the California State University, under the administration of the Trustees of the California State University, and the University of California, under the administration of the Regents of the University of California, as the 3 segments of public postsecondary education in this state:~~

~~Existing law, the College Textbook Transparency Act, encourages faculty members and academic departments that select course materials at institutions of higher education to consider cost in the adoption of textbooks, and prohibits those persons and departments from demanding or receiving anything of value for adopting course materials, with specified exceptions. The act also requires each campus bookstore at a public postsecondary educational institution to post in its store, or on its Internet Web site, a disclosure of its retail pricing policy on new and used textbooks.~~

~~This bill would require each faculty member or academic department that selects course materials, and each campus bookstore at a public postsecondary educational institution, to provide the Internet address of a college open textbook Internet Web site, as defined. Because this 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:~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: *yes-no*.

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

1 *SECTION 1. Section 46011.3 is added to the Education Code,*
2 *to read:*

3 *46011.3. Notwithstanding any other provision of law:*

4 *(a) Pupil absences certified as related to the H1N1 (2009)*
5 *influenza virus, in accordance with the procedures established*
6 *pursuant to this section, shall not be deemed to be absences within*
7 *the meaning of Section 46010 and shall not affect the calculation*
8 *of apportionments.*

9 *(b) Pupil absences related to the H1N1 (2009) influenza virus*
10 *in any public elementary or secondary school where 50 or more*
11 *pupils have missed at least one day of school for a reason within*
12 *the meaning of paragraph (2) of subdivision (d) are eligible to be*
13 *waived in accordance with this section. The governing board of a*
14 *school district in which any elementary or secondary school*
15 *meeting the 50-pupil standard specified in this subdivision is*
16 *located may apply to the Superintendent for a waiver of qualifying*
17 *pupil absences in that district for apportionment purposes pursuant*
18 *to this section.*

19 *(c) The Superintendent shall adopt, and inform school districts*
20 *about, guidelines and procedures to govern the processing of*
21 *applications submitted pursuant to subdivision (b) and the*
22 *certification of pupil absences in an applicant school district as*
23 *related to the H1N1 (2009) influenza virus.*

24 *(d) As used in this section:*

25 *(1) "H1N1 (2009) influenza virus" means the virus also*
26 *commonly known as "pandemic influenza" or "swine flu."*

27 *(2) "Pupil absences related to the H1N1 (2009) influenza virus"*
28 *include, but are not necessarily limited to, both of the following:*

29 *(A) Absences of pupils who tested positive for the H1N1 (2009)*
30 *influenza virus.*

31 *(B) Absences of pupils who have not tested positive for the H1N1*
32 *(2009) influenza virus, but whose absence occurs during an*
33 *outbreak of that virus that leads either to a complete or partial*
34 *closure of their school or to their parents or guardians reasonably*
35 *concluding that school attendance would subject those pupils to*
36 *a heightened danger of being stricken with that virus.*

37 ~~*SECTION 1. Section 66406.7 of the Education Code is*~~
38 ~~*amended to read:*~~

- 1 ~~66406.7. (a) This section shall be known and may be cited as~~
2 ~~the College Textbook Transparency Act.~~
- 3 ~~(b) As used in this section, the following terms have the~~
4 ~~following meanings:~~
- 5 ~~(1) “Adopter” means any faculty member or academic~~
6 ~~department or other adopting entity at an institution of higher~~
7 ~~education responsible for considering and choosing course~~
8 ~~materials to be used in connection with the accredited courses~~
9 ~~taught at that institution.~~
- 10 ~~(2) “College open textbook Internet Web site” means~~
11 ~~www.collegeopentextbooks.org.~~
- 12 ~~(3) “Complimentary copies” or “review course materials” only~~
13 ~~includes books that in all appearances are the same as the regular~~
14 ~~student edition of the textbook, and contain no material other than~~
15 ~~that found in the regular student edition of the textbook.~~
- 16 ~~(4) “Instructor copies” or “complimentary teacher editions”~~
17 ~~means books with information that is meant to be for the exclusive~~
18 ~~use of teachers and not for students. These books contain answers~~
19 ~~and solutions, test questions, and pedagogical techniques, and are~~
20 ~~often labeled instructor’s edition or instructor’s manuals.~~
- 21 ~~(5) “New edition of textbook” means a subsequent version of~~
22 ~~an earlier standard textbook. A standard textbook is the primary,~~
23 ~~full, and unabridged edition of a textbook. An abridged, alternate~~
24 ~~format, or alternate version of a standard textbook shall not be~~
25 ~~considered a new edition.~~
- 26 ~~(6) “Publisher” means any publishing house, publishing firm,~~
27 ~~or publishing company that publishes textbooks or other course~~
28 ~~materials, specifically designed for postsecondary instruction.~~
- 29 ~~(7) “Textbook” means a book that contains printed material and~~
30 ~~is intended for use as a source of study material for a class or group~~
31 ~~of students, a copy of which is expected to be available for the use~~
32 ~~of each of the students in that class or group. “Textbook” does not~~
33 ~~include a novel.~~
- 34 ~~(8) “Unsolicited complimentary copies” means all items~~
35 ~~described in paragraph (3) and that were not requested by faculty~~
36 ~~but are sent by the publisher unsolicited by a faculty or staff~~
37 ~~member.~~
- 38 ~~(c) (1) Adopters are encouraged to consider cost in the adoption~~
39 ~~of textbooks.~~

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

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

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

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

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

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

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

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

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

25 ~~(D) A list of the substantial content differences or changes made~~
26 ~~between the current edition initially published on or after January~~
27 ~~1, 2010, and the previous edition of the textbook, including, but~~
28 ~~not necessarily limited to, new chapters, additional eras of time,~~
29 ~~new themes, or new subject matter.~~

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

32 ~~(f) Each campus bookstore at any public postsecondary~~
33 ~~educational institution shall post in its store or on its Internet Web~~
34 ~~site a disclosure of its retail pricing policy on new and used~~
35 ~~textbooks and the Internet address of a college open textbook~~
36 ~~Internet Web site.~~

37 ~~(g) Each public postsecondary educational institution shall~~
38 ~~encourage adopters with course material selection responsibilities~~
39 ~~to place their orders with sufficient lead time, whenever possible,~~

1 to enable the university-managed bookstore or contract-managed
2 bookstore to confirm the availability of the requested materials.

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

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

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

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

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

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

25 ~~(j) An adopter at an institution of higher education shall provide
26 the Internet address of a college open textbook Internet Web site
27 on any syllabus, course materials list, and any other related course
28 materials, including course materials that are available
29 electronically, that list the textbooks required for that course.~~

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

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

39 ~~(m) Any self-published textbook by an instructor for use with
40 that instructor's class shall be exempt from this section, if the~~

1 instructor discloses the publishing and use of those materials to
2 his or her employer institution.

3 ~~SEC. 2. If the Commission on State Mandates determines that~~
4 ~~this act contains costs mandated by the state, reimbursement to~~
5 ~~local agencies and school districts for those costs shall be made~~
6 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
7 ~~4 of Title 2 of the Government Code.~~

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