

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2214**

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**Introduced by Assembly Member Harper**  
**(Coauthors: Assembly Members Travis Allen, Gallagher, Mathis,**  
**and Patterson)**  
(Coauthor: Senator Huff)

February 18, 2016

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An act to *amend Section 66406.7 of, and to add Section 66407.3 to* the Education Code, relating to public postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2214, as amended, Harper. Public postsecondary education: faculty royalty income disclosure.

(1) Existing law, known as the Donahoe Higher Education Act, sets forth the missions and functions of the segments of postsecondary education in this state. The California State University, under the administration of the Trustees of the California State University, the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, and the University of California, under the administration of the Regents of the University of California, constitute the 3 segments of public postsecondary education in this state. Provisions of the Donahoe Higher Education Act apply to the University of California only to the extent that the regents act, by appropriate resolution, to make those provisions applicable.

An existing chapter of the Donahoe Higher Education Act relates to the use of academic materials, and provides that a court of competent

jurisdiction is authorized to grant relief that is necessary to enforce the provisions of this chapter, including through the issuance of an injunction. *This chapter also includes the College Textbook Transparency Act which, among other things, provides that certain faculty members, defined as adopters, are authorized to receive royalties or other compensation from sales of course materials that include the instructor's writing or other work, subject to the employer's standing policies or collective bargaining agreements relating to employee conflicts of interest.*

This bill would add to this chapter a provision that requires the trustees and the governing board of each community college district, and requests the regents, to require their faculty members to annually disclose, on or before April 15, 2017, and on or before April 15 of each year thereafter, on a form and in a manner to be determined by the trustees, the governing board, or the regents, as appropriate, all of the income he or she received in the immediately preceding calendar year from a publisher, periodical, or provider of online content for royalties, advances, consulting services, or for any other purpose. *The bill would require faculty members to whom the bill is applicable to file a form even if they have no disclosable income in the calendar year. The bill would require that these forms be filed under penalty of perjury, thereby imposing a state-mandated local program by expanding the scope of the crime of perjury.*

The bill would require that the information provided by the faculty members under this bill be available to the public on the Internet Web site of the institution at which the faculty members teach, as specified. The bill would authorize the trustees, community college governing boards, or regents to require a faculty member who does not file the information required under this bill in a timely manner to pay an administrative fine of up to ~~25% of the unreported income or \$5,000, whichever is smaller,~~ \$50, as specified.

The bill would authorize the trustees and the community college district governing boards to expend the proceeds of these fines for general educational purposes at the campuses at which the faculty members who were assessed the fines were employed. With respect to the California State University, the bill would establish the California State University Faculty Royalty Disclosure Fund as a continuously appropriated fund for the deposit of fine proceeds and their allocation to the appropriate campuses. The bill would request the regents to allocate the proceeds of any administrative fines they collect pursuant

to the bill in a manner similar to that described for the California State University.

To the extent that this provision would impose new duties on community college districts, this 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.~~

*(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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 66406.7 of the Education Code is amended  
2 to read:

3 66406.7. (a) This section shall be known and may be cited as  
4 the College Textbook Transparency Act.

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

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

12 (2) "Complimentary copies" or "review course materials" only  
13 includes books that in all appearances are the same as the regular

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (D) A list of the substantial content differences or changes made  
12 between the current edition initially published on or after January  
13 1, 2010, and the previous edition of the textbook, including, but  
14 not necessarily limited to, new chapters, additional eras of time,  
15 new themes, or new subject matter.

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

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

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

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

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

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

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

1 employee conflicts of ~~interest~~, *interest and, with respect to faculty*  
 2 *members of the California State University and the California*  
 3 *Community Colleges, subject to the requirements of Section*  
 4 *66407.3.*

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

8 (4) Training in the use of course materials and course  
 9 technologies. Payment for travel and lodging and or meals shall  
 10 be subject to the employer’s standing polices relating to employee  
 11 conflicts of interest and compensation.

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

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

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

25 **SECTION 1.**

26 *SEC. 2.* Section 66407.3 is added to the Education Code, to  
 27 read:

28 66407.3. (a) The Trustees of the California State University  
 29 and the governing board of each community college district shall,  
 30 and the Regents of the University of California are requested to,  
 31 require its faculty members to annually disclose, on or before April  
 32 15, 2017, and on or before April 15 of each year thereafter, on a  
 33 form and in a manner to be determined by the trustees, the  
 34 governing board, or the regents, as appropriate, all of the income  
 35 he or she received in the immediately preceding calendar year  
 36 from a publisher, periodical, or provider of online content for  
 37 royalties, advances, consulting services, or for any other purpose.  
 38 *A faculty member to whom this section is applicable shall be*  
 39 *required to file a form even if he or she has no disclosable income*

1 *in the calendar year. A faculty member shall file the form required*  
2 *by this section under penalty of perjury.*

3 (b) The trustees, community college district governing boards,  
4 and regents shall ensure that the information provided by the  
5 faculty members pursuant to subdivision (a) is available to the  
6 public on the Internet Web site of the institution at which the  
7 faculty members teach. The information provided by an individual  
8 faculty member pursuant to this section shall remain available on  
9 the Internet Web site for as long as that individual is employed as  
10 a teacher at that institution.

11 (c) The trustees, community college district governing board,  
12 and the regents, as appropriate, may require, with proper notice  
13 and an opportunity for a hearing, a faculty member who does not  
14 file the information required pursuant to this section in a timely  
15 manner to pay an administrative fine of up to ~~25 percent of the~~  
16 ~~unreported income or five thousand dollars (\$5,000), whichever~~  
17 ~~is smaller.~~ *fifty dollars (\$50)*. The proceeds of any administrative  
18 ~~fin~~es collected pursuant to this subdivision shall be collected by  
19 the trustees or by a community college district governing board,  
20 as appropriate, and shall be deposited in a fund for allocation  
21 pursuant to subdivision (d).

22 (d) (1) The trustees shall deposit the proceeds of administrative  
23 fines collected pursuant to subdivision (c) into the California State  
24 University Faculty Royalty Disclosure Fund, which is hereby  
25 established. Notwithstanding Section 13340 of the Government  
26 Code, the moneys in the California State University Faculty  
27 Royalty Disclosure Fund are continuously appropriated to the  
28 trustees for allocation for expenditure for general educational  
29 purposes at the campus at which the faculty member who was  
30 assessed the fine is employed.

31 (2) The governing board of a community college district is  
32 authorized to expend the proceeds of any administrative fines  
33 collected pursuant to subdivision (c) for general educational  
34 purposes at the campus at which the faculty member who was  
35 assessed the fine is employed.

36 (3) The regents are requested to allocate the proceeds of any  
37 administrative fines collected pursuant to subdivision (c) in a  
38 manner similar to that described in paragraph (1).

39 ~~SEC. 2. If the Commission on State Mandates determines that~~  
40 ~~this act contains costs mandated by the state, reimbursement to~~

1 local agencies and school districts for those costs shall be made  
2 pursuant to Part 7 (commencing with Section 17500) of Division  
3 4 of Title 2 of the Government Code.

4 *SEC. 3. No reimbursement is required by this act pursuant to*  
5 *Section 6 of Article XIII B of the California Constitution for certain*  
6 *costs that may be incurred by a local agency or school district*  
7 *because, in that regard, this act creates a new crime or infraction,*  
8 *eliminates a crime or infraction, or changes the penalty for a crime*  
9 *or infraction, within the meaning of Section 17556 of the*  
10 *Government Code, or changes the definition of a crime within the*  
11 *meaning of Section 6 of Article XIII B of the California*  
12 *Constitution.*

13 *However, if the Commission on State Mandates determines that*  
14 *this act contains other costs mandated by the state, reimbursement*  
15 *to local agencies and school districts for those costs shall be made*  
16 *pursuant to Part 7 (commencing with Section 17500) of Division*  
17 *4 of Title 2 of the Government Code.*