

BILL ANALYSIS

Senate Research Center

H.B. 3382
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S/C on Higher Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are currently laws in place in Texas that require textbook publishers to provide alternatives for blind and visually-impaired students in K-12, but there are no laws that extend such privileges to college students. While offices of disability services often request electronic files of books from publishers and most publishers supply them without incident, not all publishers do so. Even if publishers do respond, they sometimes take months to do so, and by the time the student receives the files, the class is nearing its end.

H.B. 3382 requires textbook publishers to make electronic copies of textbooks and other assigned written materials promptly available to universities, if requested, for use by visually impaired students. The bill also prohibits publishers from charging an entity for the material and subjects publishers who fail to comply with the law to administrative penalties imposed by the Texas Higher Education Coordinating Board.

To protect against copyright violations, students will purchase textbooks and the university will provide proof of purchase for the actual textbooks from the bookstore. Furthermore, publishers will not have to provide electronic copies of the textbook if copyrights prohibit it, the publication is out of print, or the publication is a format that cannot be converted into an electronic file.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 (Section 51.970, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.970, as follows:

Sec. 51.970. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY IMPAIRED STUDENTS. (a) Defines "blind or visually impaired student," "coordinating board," "institution of higher education," "instructional material," and "special instructional material."

(b) Provides that this section applies only to certain instructional material as set forth in this subsection.

(c) Requires a publisher or manufacturer of special printed instructional material assigned by an institution of higher education (institution) for use by students in connection with a course at the institution to provide to the institution, on its request in accordance with this section, computerized files based on the printed instructional material, in order to assist the institution in producing the material. Requires the publisher or manufacturer, as applicable, to provide the computerized files not later than the 15th business day after the date of receipt of the request.

(d) Requires a request made by an institution under Subsection (c) to certify that, for each blind or visually impaired student who will use specialized instructional material based on the requested computerized files for a course in which the student is enrolled at the institution, either the institution or the student has

purchased a printed copy of the instructional material, and be signed by the person at the institution with primary responsibility for services for disabled students.

(e) Authorizes a publisher or manufacturer to require that a request made by an institution under Subsection (c) include from each student for whom the institution is making the request a signed statement in which the student agrees to certain requirements.

(f) Requires the computerized files of the printed instructional material to be in a certain format and include corrections or revisions as set forth in this subsection.

(g) Requires the publisher or manufacturer, as applicable, if unable to agree on a format as required by Subsection (f)(1)(A) with the institution, to provide the computerized files in American Standard Code for Information Interchange (ASCII) text or an equivalent text and in a format that contains as much of the material specified by that subsection as is practicable.

(h) Provides that, notwithstanding any other provision of this section, a publisher or manufacturer is not required to comply with Subsection (c) or (f), as applicable, if the Texas Higher Education Coordinating Board (THECB), using procedures and criteria adopted by THECB rule and based on information provided by the publisher or manufacturer, makes certain determinations.

(i) Authorizes THECB to impose a reasonable administrative penalty against a publisher or manufacturer that knowingly violates this section. Requires THECB to provide for a hearing to be held, in accordance with THECB rule, to determine whether a penalty is to be imposed and the amount of any penalty. Requires THECB to base the amount of any penalty on certain factors.

(j) Requires THECB, in consultation with an advocacy organization for persons who are blind or visually impaired, to adopt rules for administering this section, including rules that address certain matters.

SECTION 2. (a) Provides that Section 51.970, Education Code, as added by this Act, applies beginning with requests for computerized files of printed instructional material assigned for use by students in the 2008 spring semester.

(b) Requires THECB to adopt rules as required by Section 51.970(i), Education Code, as added by this Act, not later than November 1, 2007.

SECTION 3. Effective date: upon passage or September 1, 2007.