

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 289 Textbook Affordability
SPONSOR(S): Flores and others
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|------------------------------------------------|-------------------------|-----------------|----------------|
| 1) <u>Committee on Postsecondary Education</u> | <u>7 Y, 0 N</u> | <u>Barnhill</u> | <u>Tilton</u> |
| 2) <u>Schools & Learning Council</u> | <u>14 Y, 0 N, As CS</u> | <u>Barnhill</u> | <u>Cobb</u> |
| 3) <u>Policy & Budget Council</u> | <u></u> | <u>Jacobik</u> | <u>Hansen</u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

CS/HB 289 prohibits all employees of community colleges or state universities from receiving any form of compensation for requiring a certain textbook. Exceptions are provided for sample copies, instructional copies, educational materials, or royalties for the instructor's work.

CS/HB 289 requires community colleges and state universities to notify students of the required textbooks 45 days prior to the first day of class or when the instructor or academic department identifies the required or recommended book.

CS/HB 289 requires the Board of Governors and the State Board of Education to adopt policies, procedures, and guidelines by March 1, 2008 to further efforts to minimize the cost of textbooks. These policies, procedures, and guidelines must include: sufficient time for bookstores to confirm availability, especially with regard to used books; confirmation, as part of the adoption process, that all required bundled materials will be used; confirmation, as part of the adoption process, that the new edition differs substantially from the earlier editions; and, ways to provide required textbooks to students who could not otherwise afford them.

CS/HB 289 requires OPPAGA to conduct a study of the rising costs of college textbooks and textbook purchasing practices of public postsecondary educational institutions in the state.

CS/HB 289 does not appear to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – CS/HB 289 requires the State Board of Education and the Board of Governors to adopt policies, procedures, and guidelines for community colleges and state universities to further efforts to minimize textbook costs. CS/HB 289 also requires OPPAGA to study the rising costs of textbooks and textbook purchasing practices in Florida.

B. EFFECT OF PROPOSED CHANGES:

Background

Textbook costs across the country have increased at twice the rate of inflation over the last 2 decades.¹ States across the country have been proposing and implementing legislation to address this issue. California urges textbook publishers to “unbundle” texts from expensive software as often as possible. California requires the cost of the textbook to be disclosed to faculty. California passed legislation urging universities to create a textbook rental service, but this was subsequently vetoed by the governor. Connecticut requires the cost of textbooks be disclosed to faculty as well and also allows students to purchase their textbooks prior to financial aid disbursement. Virginia prohibits university faculty from receiving any benefits from textbook publishers for requiring students to purchase a certain textbook. Virginia also created guidelines that encourage efforts to minimize the cost of textbooks. Washington requires bookstores to disclose how new editions differ from previous editions. Last session, Maryland considered but failed to pass two bills related to textbook affordability. One provided a tax exemption for textbooks and the other required bookstores to post textbook information by a certain time and prohibited faculty compensation from textbook publishers. There are two bills currently before the Texas legislature regarding textbook affordability and three before the Arkansas legislature. These bills require the establishment of guidelines for the use of royalties received by a faculty member from the sale of textbooks for their classes, require the publication of required textbooks by a given deadline, prohibit faculty compensation, require the same edition of textbooks to remain in use for three years unless good cause for change exists, and restrict bundling of materials.

Postsecondary education institutions across Florida have individually created textbook adoption processes, policies for notification of required textbooks to students, and restrictions on instructors from receiving compensation. The textbook adoption policies created by each institution vary from formal processes set out in their collective bargaining agreements between the union and the Board of Trustees to less formal faculty discussions or committee meetings. Most institutions follow the less formal textbook adoption process of faculty discussions or committee meetings. Most postsecondary education institutions make the textbook information available to students prior to the first day of class through online syllabi, a specific textbook information web page, or most commonly through the campus bookstore website. A minority of institutions have an express prohibition against instructors receiving compensation from textbook publishers. Other institutions have less formal restrictions on instructor compensation ranging from filing Conflict of Interest forms to relying on the institution’s Code of Ethics. Postsecondary education institutions have general processes regarding textbook adoption and affordability, however there is currently no uniformity in these processes, even between branches of the same institution.²

¹ U.S. Gov’t Accountability Office, *College Textbooks: Enhanced Offerings Appear to Drive Recent Price Increases*, GAO-05-806 (July 2005).

² See Survey on Textbook Policies and Practices at Florida’s postsecondary education institutions, conducted by the Committee on Colleges and Universities in summer 2006.

The State Board of Education and the Board of Governors, currently, have no policies, procedures, or guidelines regarding textbook adoption for postsecondary education institutions.

Effect of Proposed Changes

CS/HB 289 creates a new section, s. 1004.09, F.S., addressing textbook affordability and establishing requirements for the State Board of Education (SBE), the Board of Governors (BOG), state universities, community colleges, and their employees regarding this issue. CS/HB 289 prohibits employees of state universities and community colleges from receiving any form of compensation for requiring a certain textbook. The only exceptions to this restriction are sample copies, instructor copies, or educational materials, and royalties from sales of textbooks that include the instructor's writing or work. CS/HB 289 also requires state universities and community colleges to notify students of the required textbooks 45 days prior to the first day of classes or when the instructor or academic department identifies the required or recommended textbook. CS/HB 289 requires SBE and BOG to adopt policies, procedures, and guidelines by March 1, 2008 to further efforts to minimize the cost of textbooks. These policies must provide for adopting textbooks with sufficient lead time to ensure bookstores have the textbooks and are able to have as many used textbooks as possible. The policies must include a requirement for confirmation, by the instructor or the academic department, of the intent to use all items ordered, especially bundled materials, a single package including a textbook with other materials. The policies must require the determination, by the instructor or the academic department, that the new edition of the required textbook significantly differs in a substantive way from earlier editions. The final requirement for these policies is to provide for the availability of required textbooks to students who could not otherwise afford the cost.

CS/HB 289 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of the rising costs of textbooks and textbook purchasing practices of public postsecondary educational institutions in the state and provide a final report to the President of the Senate and the Speaker of the House by December 1, 2007. OPPAGA is required to conduct a sample survey of students in these institutions on the cost of textbooks each semester. OPPAGA then must review and analyze the different textbook purchasing policies around the state and develop and disseminate best practices for textbook purchasing. OPPAGA must also review textbook policies and practices being considered or implemented in other states in an effort to reduce textbook costs, including, but not limited to, use of used textbooks, rental textbook systems, digital textbook subscriptions, textbook financing programs, faculty education, and standard procedures for institutions and college bookstores.

C. SECTION DIRECTORY:

- Section 1:** Creates a new section, s. 1004.09, F. S., prohibiting certain actions of community college or state university employees that relate to student purchase of required textbooks; requiring student notification of assigned textbooks; requiring adoption of specified policies and practices to minimize the cost of textbooks.
- Section 2:** Requires a study and report by the Office of Program Policy Analysis and Government Accountability.
- Section 3:** Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

CS/HB 289 does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

CS/HB 289 does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

CS/HB 289 does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

CS/HB 289 does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

CS/HB 289 may reduce the cost students in postsecondary education institutions pay for textbooks.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

CS/HB 289 does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds, reduce the authority that municipalities or counties have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not create any rule-making authority; however this bill does require the adoption of policies, procedures and guidelines, requiring less time for implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 27, 2007, the Schools and Learning Council adopted one amendment and voted the bill as amended out favorably as a council substitute. CS/HB 289 differs from the bill in that it removes the sales tax exemption for required or recommended textbooks. CS/HB 289 also increases the time required for universities to report required textbooks from 15 days to 45 days. CS/HB 289 also extends the time period for the State Board of Education and the Board of Governors to adopt policies, procedures and guidelines to further efforts to minimize the cost of textbooks.