

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

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

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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 &amp; Learning Council</u>	<u></u>	<u>Barhill</u>	<u>Cobb</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

This bill provides a sales tax exemption for required or recommended textbooks for degree-seeking students of certain degree-granting postsecondary educational institutions in Florida. Students must present valid student identification cards and documentation that the textbooks are required or recommended.

This bill 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.

This bill requires community colleges and state universities to notify students of the required textbooks 15 days prior to the first day of class or when the instructor or academic department identifies the required or recommended book.

This bill requires the Board of Governors and the State Board of Education to adopt policies, procedures, and guidelines by February 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.

This bill 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.

According to the March 17, 2007 Consensus Estimating Conference, this bill may reduce sales tax revenues from both state and local governments by \$45.2 million in FY 2007-08. Please see the FISCAL Section of the bill analysis for further details.

The provisions of this bill appear to reduce the authority that cities and counties have to raise revenue through local option sales taxes. The bill does not appear to qualify for an exemption or exception. Therefore, the constitutional mandate provision may be applicable and this bill may require a two-thirds vote of membership of each chamber for passage.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

*Provide limited government* – This bill 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. This bill also requires OPPAGA to study the rising costs of textbooks and textbook purchasing practices in Florida.

*Ensure lower taxes* – This bill creates a tax exemption for required textbooks for degree-seeking students.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

Textbook costs across the country have increased at twice the rate of inflation over the last 2 decades.<sup>1</sup> The high cost of textbooks is an issue facing not only Florida, but the entire country. 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

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

and affordability, however there is currently no uniformity in these processes, even between branches of the same institution.<sup>2</sup>

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

The sales tax in Florida is set at six percent of the sales price of all items sold through retail transactions.<sup>3</sup> In addition to the state sales tax, local governments are authorized to impose a discretionary sales surtax.<sup>4</sup> Sales tax exemptions exist for a range of items including general groceries, medical products and supplies, and certain farming equipment. An exemption also exists for school books used in regularly prescribed courses of study for students in kindergarten through grade 12. The exemption excludes school books sold at community colleges and other institutions of higher learning.<sup>5</sup>

### **Effect of Proposed Changes**

This bill provides a sales tax exemption for required or recommended textbooks for degree-seeking students of certain degree-granting postsecondary educational institutions in Florida. The exemption applies to required or recommended textbooks in which these students are currently enrolled. This exemption is available to students enrolled in public universities, community colleges, baccalaureate-degree granting independent nonprofit colleges or universities accredited by the Commission on Colleges of the Southern Association of Colleges and Schools and located in and chartered as a domestic corporation by the state, or independent postsecondary educational institutions in Florida that are licensed by the Commission for Independent Education and are authorized to grant degrees. Students must show valid student identification cards and documentation that the textbooks are required or recommended in order to receive the exemption.

This bill 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. This bill 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. This bill also requires state universities and community colleges to notify students of the required textbooks 15 days prior to the first day of classes or when the instructor or academic department identifies the required or recommended textbook. The bill requires SBE and BOG to adopt policies, procedures, and guidelines by February 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.

This bill 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

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

<sup>3</sup> s. 212.05(1)(a), F.S.

<sup>4</sup> s. 212.055, F.S.

<sup>5</sup> s. 212.08(7)(r), F.S.

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:** Amends s. 212.08, F.S., creating a tax exemption for required or recommended textbooks.
- Section 2:** Creates a new section, s. 1004.09, F. S., creating responsibilities for postsecondary education institutions, their employees, and the State Board of Education and the Board of Governors.
- Section 3:** Requires a study and report by the Office of Program Policy Analysis and Government Accountability.
- Section 4:** Provides an effective date of July 1, 2007.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Consensus Estimating Conference met on March 17, 2007, and adopted the following estimate for this bill:<sup>6</sup>

	FY 2007-2008 Annualized	FY 2007-2008 Cash	FY 2009-2009 Cash	FY 2009-2010 Cash	FY 2010-2011 Cash
General Revenue	(\$40.2 m)	(\$36.9 m)	(\$43.2m)	(\$46.0 m)	(\$48.8 m)
State Trust	(\$0.1 m)	(\$0.1 m)	(\$0.1 m)	(\$0.1 m)	(\$0.1 m)
<b>Total State Impact</b>	<b>(\$40.3 m)</b>	<b>(\$37.0 m)</b>	<b>(\$43.3 m)</b>	<b>(\$46.1 m)</b>	<b>(\$48.9 m)</b>
Revenue Sharing	(\$1.3 m)	(\$1.2 m)	(\$1.4 m)	(\$1.5 m)	(\$1.6 m)
Local Gov't Half Cent	(\$3.9 m)	(\$3.5 m)	(\$4.1 m)	(\$4.4 m)	(\$4.7 m)
Local Option	(\$3.8 m)	(\$3.5 m)	(\$4.1 m)	(\$4.4 m)	(\$4.6 m)
<b>Total Local Impact</b>	<b>(\$9.0 m)</b>	<b>(\$8.2 m)</b>	<b>(\$9.6 m)</b>	<b>(\$10.3 m)</b>	<b>(\$10.9 m)</b>
<b>Total Impact</b>	<b>(\$49.3 m)</b>	<b>(\$45.2 m)</b>	<b>(\$52.9 m)</b>	<b>(\$56.4 m)</b>	<b>(\$59.8 m)</b>

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Please refer to the above table.

2. Expenditures:

None.

<sup>6</sup> <http://edr.state.fl.us/conferences/revenueimpact/impact.htm>

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may reduce the cost students in postsecondary education institutions pay for textbooks by creating a tax exemption for certain textbooks.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The provisions of this bill appear to reduce the authority that cities and counties have to raise revenue through local options sales taxes. The bill does not appear to qualify for an exemption or exception. Therefore, the constitutional mandate provision may be applicable and this bill may require a two-thirds vote of the membership of each chamber for passage.

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:

The Department of Education recommends considering clarification of the following<sup>7</sup>:

- This bill appears to be applicable to all bookstores in Florida, not just those on college and university campuses. If that is not the intent, then further clarification is needed.
- If the exemption applies to textbooks that are purchased from a vendor over the telephone or on the Internet, it is unclear how student, institution, or textbook eligibility would be provided or verified.
- If there was more time between release of the OPPAGA report and the deadline for State Board of Education procedures and guidelines development, the benefits of that research might inform a better policy

D. STATEMENT OF THE SPONSOR

No statement submitted.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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<sup>7</sup> Florida Department of Education, Governmental Relations Office, 2007 Legislative Bill Analysis on HB 289: An act relating to textbook affordability.